

NLWJC – Kagan

Hard Drive – Folder 12

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	Phone No. (Partial) (2 pages)		P6/b(6)
002. memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)
003. memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)
004. memo	Phone No. (Partial) (1 page)	5/22/1998	P6/b(6)
005. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)
006. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)
007. memo	Personal (Partial) (1 page)	12/4/1997	P6/b(6)
008. memo	From Ron Klain to Vice President Gore (4 pages)	5/19/1996	P2, P5, P6/b(6)
009. chronology	Chronology of Whitewater productions (3 pages)	4/1996	P5
010. memo	From Walker Bass to Bob Nash, re: personnel (2 pages)	3/10/1998	P2, P6/b(6)
011. paper	Production list (2 pages)	n.d.	P5
012. form	University of Chicago (6 pages)	n.d.	Personal Misfile

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]

\*June 10, 1997

CABINET BRIEFING ON "ONE AMERICA IN THE 21ST CENTURY:  
THE PRESIDENTS INITIATIVE ON RACE"

DATE:Wednesday, June 11, 1997  
LOCATIONRoosevelt Room  
TIME:5:30 - 7:00 pm  
FROM:Kitty Higgins

I. PURPOSE

To brief the Cabinet on the Race Initiative which the President will announce in the University of California at San Diego Commencement Address on Saturday, June 14, 1997.

II. PARTICIPANTS

YOU  
Sylvia Mathews  
Ann Lewis  
Elena Kagan  
Cabinet Members

III. PRESS PLAN

Closed Press

IV. SEQUENCE OF EVENTS

WelcomeYOU

Race InitiativeSylvia Mathews

Communications StrategyAnn Lewis

Policy DevelopmentElena Kagan

V. REMARKS

See talking points.

VI. ATTACHMENTS

A. Talking Points.

B. List of Cabinet Members.

C. Handouts.

FF

## CABINET BRIEFING

June 11, 1997

Roosevelt Room--5:30 p.m.

## Materials

- I. The Presidents Radio Address on Hate Crimes, June 5, 1997
- II. The Presidents remarks at the Tuskegee Event, May 16, 1997
- III. The Presidents Inaugural Address, January 20, 1997
- IV. The Presidents remarks at the University of Texas at Austin, October 15, 1993
- V. The Presidents remarks at the Mason Temple Church of God, November 13, 1993
- VI. Federal Welfare-to-Work Report, June 1997
- VII. The Presidents Schedule, June-August 1997
- VIII. The Vice Presidents Schedule, June 1997
- IX. Cabinet and Sub-Cabinet Schedules, June 11, 1997
- X. Talking Points
  - \*The Presidents Initiative on Race, June 11, 1997
  - \*Q & As on the Presidents Initiative on Race, June 11, 1997
  - \*Excerpts from past Presidential Speeches on Race, June 11, 1997
  - \*Human Cloning/Hate Crimes Conference, June 9, 1997
  - \*Chairman Archers Tax Plan, June 10, 1997

CABINET BRIEFING  
June 11, 1997  
Cabinet Room--5:30 p.m.

Agenda

I. Welcome Erskine Bowles

II. Race Initiative Sylvia Mathews

III. Communications Strategy Ann Lewis

IV. Policy Development Elena Kagan

V. Outreach Maria Echaveste  
Minyon Moore

July 18, 1997

CABINET BRIEFING

DATE: July 23, 1997

LOCATION: Roosevelt Room

TIME: 4:30 pm

FROM: Thurgood Marshall, Jr.

I. PURPOSE

To brief Cabinet Members on Fast Track, the Race Initiative, and Climate Change.

II. BACKGROUND

The last time you met with the Presidents Cabinet was June 11, 1997.

III. PARTICIPANTS

YOU

Cabinet Members

IV. SEQUENCE OF EVENTS

- YOU will make opening remarks.
- YOU will call on Gene Sperling to discuss Fast Track.  
(Secretary Rubin and Ambassador Barshefsky will amplify this point)
- YOU will call on Judy Winston and Elena Kagan to discuss the Race Initiative.  
(Secretary Herman and Administrator Alvarez will amplify this point)
- YOU will call on Katie McGinty and Todd Stern to discuss Climate Change.

V. REMARKS

Talking points will be provided by Cabinet Affairs.

CABINET BRIEFING

July 23, 1997

Roosevelt Room--4:00 p.m.

Agenda

I. Welcome Erskine Bowles

II. Fast Track Jay Berman

III. Climate Change Todd Stern

IV. Race Initiative Judith Winston  
Elena Kagan

June 10, 1997

CABINET BRIEFING ON ONE AMERICA IN THE 21ST CENTURY:  
THE PRESIDENTS INITIATIVE ON RACE

DATE:Wednesday, June 11, 1997  
LOCATIONRoosevelt Room  
TIME:5:30 - 7:00 pm  
FROM:Kitty Higgins

I. PURPOSE

To brief the Cabinet on the Race Initiative which the President will announce in the University of California at San Diego Commencement Address on Saturday, June 14, 1997.

II. PARTICIPANTS

YOU  
Sylvia Mathews  
Ann Lewis  
Elena Kagan  
Cabinet Members

III. PRESS PLAN

Closed Press

IV. SEQUENCE OF EVENTS

WelcomeYOU

Race InitiativeSylvia Mathews

Communications StrategyAnn Lewis

Policy DevelopmentElena Kagan

V. REMARKS

See talking points.

VI. ATTACHMENTS

A. Talking Points.

B. List of Cabinet Members.

C. Handouts.



CABINET BRIEFING

June 11, 1997

Roosevelt Room--5:30 p.m.

Materials

I. The Presidents remarks at the Tuskegee Event, May 16, 1997

II. The Presidents Inaugural Address, January 20, 1997

III. The Presidents Radio Address on Hate Crimes, January 18, 1997

IV. The Presidents remarks at the University of Texas at Austin, October 15, 1996

V. The Presidents remarks at the Mason Temple Church of God, November 13, 1993

VI. Federal Welfare-to-Work Report, June 1997

VII. Biographies of Advisory Board Members, June 10, 1997

VIII. Press Release: Nominee to be Assistant Attorney General for Civil Rights, June 11, 1997

IX. Accomplishments Documents, June 11, 1997

X. The Presidents Schedule, June - August 1997

XI. The Vice Presidents Schedule, June 1997

XII. Cabinet and Sub-Cabinet Schedules, June 11, 1997

XIII. Talking Points

\*Racial Reconciliation, June 11, 1997

\*Q & As on Racial Reconciliation, June 11, 1997

\*Excerpts regarding Race from Presidential Speeches, June 11, 1997

\*Human Cloning/Hate Crimes Conference, June 9, 1997

\*Chairman Archers Tax Plan, June 10, 1997

CABINET BRIEFING  
June 11, 1997  
Cabinet Room--5:30 p.m.

Agenda

I. Welcome Erskine Bowles

II. Race Initiative Sylvia Mathews

III. Communications Strategy Ann Lewis

IV. Policy Development Elena Kagan

UNCLASSIFIED  
WITH ~~SECRET~~ ATTACHMENT

May 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ERSKINE B. BOWLES

SUBJECT: Issues Update

This memorandum reviews several key issues being tracked by the White House offices today.

CHINA MFN

\*House Minority Leader Dick Gephardt Speaks Out Against Extending China MFN. Rep. Gephardt today urged Congress to reject your request that most-favored-nation trading status be extended to China for another year, saying that you have been "too weak" with China. Gephardt criticized China's human rights record and trade policies which he said include "blackmailing" companies into giving China technology and trade secrets that will make it an economic powerhouse. He added that major U.S. companies may miss out on some business contracts with China but Washington must maintain leadership on the human rights issue as it did in South Africa. Gephardt said he believed European countries and other major economic powers would follow the U.S. lead and China would eventually be forced to improve human rights policies. It is the second year in a row that Gephardt has opposed renewal of most-favored-nation status to China. Last year the House passed renewal 286 to 141.

FCC CHAIRMAN RESIGNS

UNCLASSIFIED

WITH SECRET ATTACHMENT\*Chairman Hundt Announces Resignation. Today Chairman Reed Hundt of the Federal Communications Commission wrote to you to say that he intends to leave as soon as a successor is appointed. He intends to serve until that happens. His letter said that he wishes to spend more time with his family. A statement was issued in your name thanking him for his service and praising his accomplishments including progress on connecting the classrooms and libraries, improving children's broadcasting and completion of the World Trade Organization telecommunications agreement.

LATE-TERM ABORTION

\*Late-Term Abortion -- Internal Planning. Sylvia Mathews chaired an internal staff meeting today to plan both a short-term and long-term course of action in anticipation of your veto of the late-term abortion bill. The meeting resulted in the following assignments: Leg Affairs will monitor the status and timing of the House and Senate versions of the bill and

its ultimate delivery to you; DPC (Elena Kagan) will coordinate with HHS and DOJ regarding the departments' views on alternatives to the bill; DPC will also take the lead on developing policy ideas on women's health and other issues to counter the focus on abortion issues; Public Liaison will organize meetings with (1) core pro-choice groups to hear their ideas regarding plans for sustaining the veto and future efforts to recast the choice and (2) broader women's groups to discuss an agenda of women's issues.

#### ECONOMIC REPORT

\*Consumer Confidence at 28-Year High. In May, Consumer Confidence, as measured by the Conference Board, rose to its highest level since July 1969. Also, the preliminary estimate of Consumer Sentiment by the University of Michigan indicates that it is the highest it has been since the survey began in the 1950s. CEA reports that this mirrors what other economic data are telling us: economic performance is the strongest it has been in decades.

The Conference Board release shows that the percentage of consumers who believe that jobs are plentiful jumped in May, and the number of people reporting unfavorable labor market conditions fell to an all-time low. This is a reflection of the very strong labor market: since January 1993, the economy has created more than 12 million jobs, and the unemployment rate has fallen below 5 percent for the first time in 24 years.

The Conference Board survey also showed that consumers are more optimistic about the future. Respondents expect business conditions and employment prospects to improve over the next six months. This is consistent with our economy's strong fundamentals: the deficit has been cut by 77 percent since 1992, helping spark this remarkable period of strong growth and low inflation.

Although measures of consumer attitudes can bounce around a lot from month-to-month, these high readings are not just a statistical quirk. Both Consumer Confidence and Consumer Sentiment have been rising steadily since 1993. And, both indexes have been at the high end of their historical ranges for the last several months.

#### VICE PRESIDENT REPORT

\*New Hampshire Travel. The Vice President traveled to Manchester and Nashua, New Hampshire today to participate in two major events: (1) A visit this morning to an elementary school in Manchester to highlight the importance of child smoking prevention programs; and (2) a speech this evening to the Greater Nashua Chamber of Commerce on the New Economy. In the latter speech, the VP will highlight the great economic turnaround New Hampshire has achieved over the past 5 years. Initial press coverage of the trip has been very positive and Ron Klain reports that the VP feels very good about how the trip is going. Ron also reports that all of your old friends are "everywhere" and have been a great help.

## WHITE HOUSE PERSONNEL

\*Andrei Cherny. Sylvia Mathews reports that Andrei Cherny has accepted an offer to work at the White House as a speechwriter for the Vice President. We are working to ensure that this a joint appointment so that Andrei will also work on some of your remarks.

## CABINET REPORT

\*Blue Ribbon Schools. Today, Secretary Riley named 262 public and private elementary schools selected as 1996-97 Blue Ribbon Schools, honoring schools that a offer rigorous, rich curriculum to all of their students. The awardees excelled in the following areas: High student retention and graduation rates; challenging standard and curriculum; excellent teaching; school, family and community partnerships; and student performance on measures of achievement. The schools recognized this year are in 41 states, DC and Puerto Rico.

## NSC REPORT

\*\*See attached report from the NSC.

\*

CHIEFS OF STAFF BREAKFAST

June 3, 1997

AGENDA

I. Welcome Kitty Higgins

II. Budget Jack Lew

III. Racial Reconciliation Sylvia Mathews  
Elena Kagan

IV. Social Office Ann Stock

CHIEFS OF STAFF BREAKFAST

June 3, 1997

## MATERIALS

- I. The Presidents Schedule, June-August 1997
- II. The Vice Presidents Schedule, June 1997
- III. Cabinet and Sub-Cabinet Schedule, June-July 1997
- IV. The Presidents Radio Address, May 31, 1997
- V. The Presidents Statement on the DOJ 1996 Crime Statistics, June 1, 1997
- VI. June Message Schedule, May 23, 1997
- VII. Outreach Accomplishment Documents, Fall 1996
- VIII. Talking Points
  - \*NATO-Russia/European Relations/Memorial Day, May 27, 1997
  - \*Blair Meeting/Marshall Plan, May 29, 1997
  - \*The Economy Continues to Grow Steady and Strong, May 30, 1997
  - \*Small Business Week/Tax Cuts for Families, June 2, 1997

Kittys Talking Points  
Chiefs of Staff Breakfast  
Tuesday, June 3, 1997  
White House Mess -- 8:30 am.

## I. Welcome

- \*Introduce Theodore Mastroianni new COS designee at Labor.

\*Included in your packets are outreach accomplishments documents produced fall of 1996. Please review the documents and return to us any updates your agency has made in these areas. We need the updates by Friday, June 6 at 12:00 p.m. If you have any questions contact David or Bibb.

\*In preparation for the 25th anniversary of Title IX, the amendment to eliminate sex discrimination in American education, the DPC is gathering a list of federally conducted education programs. Please get a list of all programs in your agency that fit this description to Jennifer Klein at 456-2599.

\*The following Cabinet agency heads have been asked to attend the Southwest Border Region conference at the University of Texas next week: Education, DOE, USDA, DOC, EPA, HHS, HUD, DOJ, DOL, SBA and DOT.

Treasury, DOD, DOE, FEMA, GSA, OMB and ONDCP have been asked to send field staff. If you are planning to attend, please coordinate with Linda Paris at 456-5369.

## II. President's Schedule

\*Refer to attached "private schedule"-- items of interest are marked.

\*

CHIEFS OF STAFF BREAKFAST

March 11, 1997

AGENDA

I. Welcome Kitty Higgins

II. Welfare to Work Elaine Kamarck

III. OMB Spring Assessment John Koskinen  
User Fees

IV. D.C. Initiative Carol Thompson-Cole

V. Early Learning Conference Elena Kagan

VI. Gleaning Greg Frazier

CHIEFS OF STAFF BREAKFAST

March 11, 1997

MATERIALS

I. The Presidents Schedule, March-May 1997

II. The Vice Presidents Schedule, March-May 1997

III. Cabinet and Sub-Cabinet Schedule, March-April 1997

IV. Authorization for Travel to Helsinki Summit Memorandum, February 26, 1997

V. OMB Spring Assessment Memorandum, March 4, 1997

VI. The Presidents Radio Address on Welfare to Work, March 8, 1997

VII. Talking Points

\*CBO Analysis of FY98 Budget, March 4, 1997

\*American Leadership to Meet 21st Century Challenges, March 1997

\*Ending Business As Usual In Washington, March 1997

\*A Balanced Budget Plan thats Tough but Fair, March 1997

\*Presidents Budget Cuts Taxes for Middle Class Families, March 1997

Kittys Talking Points

Chiefs of Staff Breakfast

Tuesday, March 11, 1997

White House Mess -- 8:30 am.

I. Welcome

Elaine, John and Carol will arrive at 8:30 a.m.  
Elena will arrive at 8:45 a.m.

\*Welcome to two new Chiefs of Staff Paul Donovan from Commerce and Paul Weech from SBA.

\*Next week starts our D.C. Initiatives roll-out. Today, POTUS and the First Lady will kick-off the initiative with an event today that some of your principals will be attending. Each Cabinet member is expected to do an event in D.C. demonstrating their agency and this Administration's commitment to helping the District. If you have not done so already please get your detailed event proposal into Steve or David as soon as possible.

\*We are now beginning to collect requests for commencement speaking engagements for all members of the Administration. If your agency has received any requests for your Cabinet member or Sub-Cabinet members, please fax those to David as soon as possible and indicate the status of these requests.

\*If your principal is interested in traveling to the Helsinki Summit and Copenhagen, Denmark the travel request were due to the white House scheduling and advance office last week -- Please send all request to Chris Wayne at 456-7560. There is a memo outlining the travel guidelines in your packets.

Upcoming Hot Issues:

\*Hot Issues for Florida and NC were due yesterday. Please get those in to Stefanie via Lotus if you have not done so already. Hot issues for San Francisco and Los Angeles are due Wednesday, March 19.

\*The interagency volunteerism summit meeting scheduled for today at 11:00 a.m. in room 472 has been canceled. We will let you know when the next meeting will take place.

\*Weekly Reports are due this Thursday, March 13 at 12:00 p.m. Please make sure your reports are in on time. Several agencies have been consistently late over the past few weeks. It is important that they come in on time so that we can meet our deadline.

\*We are in the process of updating our e-mail distribution list to all political appointees. We will be faxing to you our current e-mail list for any updates. Please fax any updates or corrections to David.

\*

CHIEFS OF STAFF BREAKFAST

March 25, 1997

AGENDA

I. Welcome Kitty Higgins

II. Budget Process Jack Lew

III. Early Learning Conference Elena Kagan

IV. Welfare to Work Bob Stone

V. Subcabinet Conference Pat McGinnis

VI. Easter Egg Roll Melinda Bates

VII. Presidential/Agency Announcements Don Baer

CHIEFS OF STAFF BREAKFAST

March 25, 1997

MATERIALS

I.The Presidents Schedule, March-May 1997

II.The Vice Presidents Schedule, March-May 1997

III.Cabinet and Sub-Cabinet Schedule, March-May 1997

IV.Summary of Cabinet Weekly Report Memorandum, March 14, 1997

V.Hill Consultation Regarding GPRA Memorandum, March 18, 1997

VI.Funding for Lotus Notes Xchange Network Memorandum, March 21, 1997

VII.Talking Points

\*Blue Chip Economic Indicators, March 10, 1997

\*National Economic Crossroads transportation Act, March 12, 1997

\*Economic Developments in the Nations Capital, March 19, 1997

\*Hope Scholarships, March 20, 1997

\*Balanced Budget that Invest in Education, March 21, 1997

Kittys Talking Points

Chiefs of Staff Breakfast

Tuesday, March 25, 1997

White House Mess -- 8:30 am.

I.Welcome

\*Great work on the DC initiative. People were very happy with Cabinet amplification.

\*Thank you for your list of Presidential announcements last week. They were very helpful.

\*We are collecting checks today to pay for COS Breakfast. Please give Ronda your checks today for \$75.00 written out to the White House mess. We will be collecting checks to

cover the bill every 3 months.

\*If there are any Schedule C or appropriate career staff who are interested in working at AmeriCorps to help prepare for the Presidents Summit for Americas Future scheduled for April 27-29 in Philadelphia, please fax those names and phone numbers to Bibb Hubbard asap.

\*The next Inter-Agency Early Learning Conference working group meeting will be held today at 11:30-12:30 p.m. in room 476 of the OEOB. Reports regarding this matter were due yesterday to Elena Kagan. Please make sure that you have a representative at the meeting.

\*There will be an Inter-Agency meeting for the Presidents Summit on Americas Future (volunteerism summit) today at 11:00 a.m. in room 472. Please make sure that you have a representative at the meeting.

\*There is a change in the Weekly Report schedule this week. Reports will be due this Wednesday, March 26 at 12:00 p.m.

\*We need lists of suggested invitees to the Chicago Bulls event by noon today. Please get them to Anne McGuire at 456-6704.

\*1

CHIEFS OF STAFF BREAKFAST

February 25, 1997

AGENDA

- I. Welcome Kitty Higgins
- II. D.C. Initiatives/Presidential Schedule Ann Lewis
- III. Campaign Finance Reform Rahm Emanuel  
Peter Jacoby
- IV. Presidential Initiatives Elena Kagan  
Sylvia Mathews

February 25, 1997

MATERIALS

I.The Presidents Schedule, February-April 1997

II.The Vice Presidents Schedule, February-April 1997

III.Cabinet and Sub-Cabinet Schedule, February-March 1997

IV.Metro Area Re-Employment Project Flyer, February 1997

V.The Presidents address to the American Council on Education, February 24, 1997

Kittys Talking Points  
Chiefs of Staff Breakfast  
Tuesday, February 25, 1997  
White House Mess -- 8:30 am.

I.Welcome

Ann will arrive at 8:30 a.m.

Rahm, Peter and Elena will arrive at 8:45 a.m.

Sylvia will arrive after 9:00 a.m.

\*There is a Cabinet Briefing scheduled for this Friday, February 28 at 2:00 p.m. in the Roosevelt Room. Cabinet members should come prepared to discuss your Presidential Priorities memorandums.

\*The Presidential Priorities memorandums were due last Wednesday. We are still missing final reports from State, Defense, VA, EPA, UN, USTR, ONDCP, SBA, CIA, FEMA, OPM, USIA, GSA and DOE. We need these ASAP!!!

\*Over the next few months the President and the First Lady will be doing a number of events in the District. If you have any ideas for events with your principal and the President, Vice President or First Lady during the next few months, please let us know.

\*Reminders:

\*The 8:30 a.m. conference call is very important. Please make sure either you or an appropriate individual is on the call who can speak for your agency on policy questions, discuss scheduling issues, etc. The number for the call is 757-2104. Code 1270.

\*Please ensure that both your Cabinet and Sub-Cabinet schedules are being entered into the Lotus Notes Xchange system. This is only way to insure people aren't going to bump into each other on the road, and that we can track what everyone is doing. We are also expanding the database so we can track all interactions the Administration has with Members of Congress, Governors and Mayors, so please make sure this information is entered. If you have questions, please contact David.

\*There will be a meeting today at 11:00 a.m. in room 472 regarding the Volunteerism Summit. Each Department should designate someone to attend.

\*Shanker Memorial:

The funeral will take place tomorrow in NY with just members of his immediate family.

There will be a very informal "gathering" in the Atrium of the Washington Court Hotel (near the AFT HQ) tomorrow between 3-6:30 pm. This will be an opportunity for staff to gather and friends of the AFT to make a condolence call. Currently they do not expect a program. Secretary Riley is traveling tomorrow but they are planning to send a delegation.

The AFT is currently planning a larger and more formal Memorial Service during the first week of April in Washington, D.C.

## Agenda

1. Balanced budget amendment -- Barbara Chow, Chuck Konigsberg\*
2. Line item veto -- Trey Shroeder
3. Christian Science case -- Walter Dellinger
4. Welfare bill -
  - a. "religiously affiliated" -- Diane Fortuna
  - b. FLSA and privatization issues -- Elena Kagan
  - c. Religious employer issues -- Elena Kagan, Dawn Johnson
5. Campaign finance --
  - a. Citizen Advisory Group -- Wendy Smith, Rahm Emanuel
  - b. FEC cert petititons -- Seth Waxman
  - c. FEC petition -- Waldman
  - d. Overruling Buckley -- Rahm
6. Partial birth
7. Guam commonwealth -- Jeff Farrow
8. National Endowment -- Karen Christensen
9. Religious expression in the workplace -- Marc Stern
10. RFRA --
  - a. City of Bourne -- Walter Dellinger
  - b. Tithing case
11. EPA requirements -- Sally Katzen, Mike Fitzpatrick
  - a. MacIntosh response -- Steve Aitkin
  - b. Bliley -- Rob Weiner
12. Gambling Commission -- Cheryl Mills, Liz Montoya
13. Carlson letter \*
14. Gays and Lesbians --
15. America Reads -- Holly Fitter
16. Clinton v. Jones
17. Cloning -- Elizabeth Drye
18. Whistleblower legislation -- Tony Suitan\*
19. Office of the President v. Office on the Independent Counce -- Chuck Ruff
20. Federalism Executive Order -- Sally Katzen

CABINET BRIEFING

July 23, 1997

Roosevelt Room--4:00 p.m.

Agenda

I. Welcome Erskine Bowles

II. Fast Track Jay Berman

III. Climate Change Todd Stern

IV. Race Initiative Judith Winston

Elena Kagan

BUDGET MEETING

December 17, 1997

AGENDA

I. CHILD CARE (Bruce Reed and Elena Kagan)

II. Food Stamps (Jack Lew)

III. Higher Education (Bob Shireman)

IV. School Construction/TAA (Gene Sperling)

V. REVENUES (Bob Rubin and Larry Summers)

0.

MEMORANDUM TO FRANKLIN D. RAINES

FROM: SALLY KATZEN

SUBJECT: WEEKLY REPORT

Status of activities during the week of March 24-28, 1997:

UPDATE -- PM/Ozone and TRI Requests -- We are still working with Bob Damus et al. on a reasonable response to Chairman McIntosh's request for more documents relating to our review of EPAs ozone and PM air standards. Last week, I called Chairman McIntosh's office suggesting that we meet face-to-face to discuss where we are and where we are going with the remaining requests. This week he responded by letter, declining to meet with me until we provide him with a written response to his requests (the very same requests that I want to talk with him about). Bob and I are working on a way through this issue.

UPDATE -- Agency Regulatory Activity -- I convened a meeting with Elena Kagan (DPC), Kathy Wallman (NEC), and Shelley Fiddler (CEQ) to discuss the recent increase in agency rulemakings, and, as important, increasing requests for ever shorter review periods. They were very supportive and agreed to be our allies as new initiatives come up. We agreed the next step was to speak with Sylvia Mathews (probably next week).

This issue was also at the top of the agenda at this week's Regulatory Working Group meeting, where we had an excellent turn-out of GCs, assistant secretaries, and chiefs of staff. I delivered the same message to them -- no more jamming.

UPDATE -- Meet and Greet on the Hill -- I continued a round of meet and greets with the chairpersons and ranking members of various House committees that will be players in upcoming reg reform issues. Last week, I met with Reps. Gekas and Jackson-Lee (Chairman and ranking on Judiciary's Ad Law subcommittee) and with Rep. Luther (ranking on Small Business Regulation and Paperwork subcommittee). This week I touched base with Rep. Kelly (Chairwoman of Small Business Regulation and Paperwork subcommittee) and Rep. LaFalce (ranking on Small Business). I'll continue these face-to-face chats over the next few weeks -- WH Leg. Affairs think they are very productive.

UPDATE -- Unfunded Mandates Report -- We will be getting a copy of the report describing agency compliance with Title II of the Act, which addresses regulatory consultations and analyses, into clearance next week. We hope to send the report up to the Hill as soon as possible. The second year anniversary of the Act is March 22.

Individual Regulations

UPDATE -- MF/ART -- EPAs TRI/Facility Expansion Rule -- I think you know everything we know at this point, probably more.

UPDATE -- MF/ART -- EPA's Ozone and PM Air Standards -- Our outreach efforts continued with

the second of our now weekly interagency policy meetings. EPA continued its briefing on where they are in developing the final standards, and we actually began to address some of the substantive issues. These policy level meetings are supported by weekly interagency technical meetings at the staff level -- there are many more to come at both levels.

UPDATE -- DOEs Refrigerator Rule -- DOE continues to explore a new compromise. At some point, any decision will be better than no decision.

UPDATE -- Medicare Subvention -- I attended a meeting with Gordon and Nancy-Ann on a DoD notice that is related to pending legislation that would affect military retirees who are eligible for Medicare. There is a question as to how the notice would affect the legislation; we agreed to raise it with you as soon as we can.

UPDATE -- HIPAA -- We are working feverishly to review major regulations from HHS, DOL and Treasury that implement the Kennedy-Kassebaum health insurance portability legislation. I hosted a meeting of the three agencies to ensure that OMB receives all of the materials by the end of this week, in light of a statutory publication deadline of April 1. The agencies agreed to publish available analysis and discuss qualitatively the costs and benefits of these rules.

OLD ENTRY -- RRB Disabilities Rule -- I met with Jerry Keever, the management member of the RRB, who wanted to be assured that a disabilities rule that we have under review would receive timely consideration. The rule updates the medical definitions of disability from definitions that go back as far as the 1940s. We also discussed the three rules that we just returned for reconsideration. He understands our concerns.

OLD ENTRY -- Meeting with Union of Concerned Scientists -- I met with three individuals representing the Union of Concerned Scientists and the Environmental Defense Fund. They raised concerns over the need for additional regulatory oversight in the biotechnology area. We have a USDA biotech rule here now and are expecting one from EPA and one from FDA.

#### Information Policy/Technology

UPDATE -- Privacy Report -- Staff is cleaning up final footnote. Second floor sign-offs are done but for OMB Counsel, who has concerns about any options that suggest the EOP would be given additional privacy coordination functions.

UPDATE -- CIO Council -- The CIO Council met on Wednesday. I reminded the Council that the ISP/ICB submissions are due to OMB on April 14. We also discussed the latest on since a number of CIOs are being asked questions by their appropriations/authorization committee staffs on how much agencies are spending on this effort. OMB is working with the Hill to come up with a reporting requirement that satisfies both parts of the government. The next update to the cost estimates for Y2K will occur in May. We also discussed a draft paper on architecture that OMB has put together based on last year's response to the Raines Rules memo. Comments from the CIOs are due back to OMB by March 26th. We hope to put out final guidance on architecture by early May.

UPDATE - Encryption -- The Administration testified twice this week (Senate and House). We are beginning to sense some stirrings of recognition that our policy is at least worth serious discussion. We are still on target to send up an Administration bill by the end of the month. Meanwhile our roving encryption envoy David Aaron was in town and tells us that major trading partners are beginning to come around to key recovery also.

UPDATE -- Post FTS-2000 -- The debate continues over GSA's revised program strategy -- with several questions on the strategy and the reasons for its change coming up during the March 20 House Appropriations Subcommittee hearing. In response to Chairman Burton's request that GSA not release the RFP until May 2, Michael Deich and I recommended to GSA that Dave Barram send a letter to the Chairman agreeing to the delay and stating GSA's intention to form a working group to make recommendations. This working group would consist of GSA, agency, and Congressional staff and would have until April 14 to provide Barram with recommendations for strategy refinements -- using the "February strategy" as the starting point for the discussions. We believe GSA will agree to this approach.

NEW ENTRY -- DOCs Science and Technology Fellowship Program --

#### Miscellaneous

UPDATE -- Response to Thompson on Reg Costs in Strategic Plans -- My staff and I joined the fray on drafting a reply to Senator Thompson's request that agencies include information on cost and benefits in their strategic plans. We have suggested that it generally makes more sense to include such information in an annual performance plan rather than a five year strategic plan. It not easy to sort out the concerns, or the competing drafts, of NRD, OIRA, and the GPRA implementation group -- not to mention EPA. Stay tuned.

OLD ENTRY -- OECD Visits -- I met with Joanna Shelton, Deputy Secretary-General of the OECD, who is heading up the OECD project on Regulatory Reform. The various directorates have produce eleven sectoral/thematic papers, for which various agencies of the U.S. Government have provided conflicting comments. State, USTR, CEA, Commerce, and OMB have been supportive because they see it as a way to open up trade opportunities for the U.S., it is good government, and we have a good story to tell. The regulatory agencies are concerned that their opponents on the Hill will somehow use the report against them. She expressed hope that the U.S. would come up with a unified position on the final summary and recommendations paper that has just been circulated. I said I would make sure that that would happen in time for John Morrall's trip to Paris for the April 8 meeting on the final paper. He is working with State to draft a U.S. position paper.

NEW ENTRY -- Meet and Greet -- Don Gipps

#### Outreach and Interviews

Interview with Washington Technology Magazine re CIO Council.

Interview with Government Computer News re Y2K.

032897.DOC

0.

MEMORANDUM TO FRANKLIN D. RAINES

FROM: SALLY KATZEN

SUBJECT: WEEKLY REPORT

Status of activities during the week of March 17-21, 1997:

PM/Ozone and TRI Requests -- We are still working with Bob Damus et al. on a reasonable response to Chairman McIntosh's request for more documents relating to our review of EPAs ozone and PM air standards. Last week, I called Chairman McIntosh's office suggesting that we meet face-to-face to discuss where we are and where we are going with the remaining requests. This week he responded by letter, declining to meet with me until we provide him with a written response to his requests (the very same requests that I want to talk with him about). Bob and I are working on a way through this issue.

Agency Regulatory Activity -- I convened a meeting with Elena Kagan (DPC), Kathy Wallman (NEC), and Shelley Fiddler (CEQ) to discuss the recent increase in agency rulemakings, and, as important, increasing requests for ever shorter review periods. They were very supportive and agreed to be our allies as new initiatives come up. We agreed the next step was to speak with Sylvia Mathews (probably next week).

This issue was also at the top of the agenda at this week's Regulatory Working Group meeting, where we had an excellent turn-out of GCs, assistant secretaries, and chiefs of staff. I delivered the same message to them -- no more jamming.

Meet and Greet on the Hill -- I continued a round of meet and greets with the chairpersons and ranking members of various House committees that will be players in upcoming reg reform issues. Last week, I met with Reps. Gekas and Jackson-Lee (Chairman and ranking on Judiciary's Ad Law subcommittee) and with Rep. Luther (ranking on Small Business Regulation and Paperwork subcommittee). This week I touched base with Rep. Kelly (Chairwoman of Small Business Regulation and Paperwork subcommittee) and Rep. Lafalce (ranking on Small Business). I'll continue these face-to-face chats over the next few weeks -- WH Leg. Affairs think they are very productive.

Unfunded Mandates Report -- We will be getting a copy of the report describing agency compliance with Title II of the Act, which addresses regulatory consultations and analyses, into clearance next week. We hope to send the report up to the Hill as soon as possible. The second year anniversary of the Act is March 22.

Individual Regulations

EPAs TRI/Facility Expansion Rule -- I think you know everything we know at this point, probably more.

EPA's Ozone and PM Air Standards -- Our outreach efforts continued with the second of our

now weekly interagency policy meetings. EPA continued its briefing on where they are in developing the final standards, and we actually began to address some of the substantive issues. These policy level meetings are supported by weekly interagency technical meetings at the staff level -- there are many more to come at both levels.

DOEs Refrigerator Rule -- DOE continues to explore a new compromise. At some point, any decision will be better than no decision.

Medicare Subvention -- I attended a meeting with Gordon and Nancy-Ann on a DoD notice that is related to pending legislation that would affect military retirees who are eligible for Medicare. There is a question as to how the notice would affect the legislation; we agreed to raise it with you as soon as we can.

HIPAA -- We are working feverishly to review major regulations from HHS, DOL and Treasury that implement the Kennedy-Kassebaum health insurance portability legislation. I hosted a meeting of the three agencies to ensure that OMB receives all of the materials by the end of this week, in light of a statutory publication deadline of April 1. The agencies agreed to publish available analysis and discuss qualitatively the costs and benefits of these rules.

RRRB Disabilities Rule -- I met with Jerry Keever, the management member of the RRB, who wanted to be assured that a disabilities rule that we have under review would receive timely consideration. The rule updates the medical definitions of disability from definitions that go back as far as the 1940s. We also discussed the three rules that we just returned for reconsideration. He understands our concerns.

Meeting with Union of Concerned Scientists -- I met with three individuals representing the Union of Concerned Scientists and the Environmental Defense Fund. They raised concerns over the need for additional regulatory oversight in the biotechnology area. We have a USDA biotech rule here now and are expecting one from EPA and one from FDA.

#### Information Policy/Technology

Privacy Report -- Staff is cleaning up final footnote. Second floor sign-offs are done but for OMB Counsel, who has concerns about any options that suggest the EOP would be given additional privacy coordination functions.

CIO Council -- The CIO Council met on Wednesday. I reminded the Council that the ISP/ICB submissions are due to OMB on April 14. We also discussed the latest on since a number of CIOs are being asked questions by their appropriations/authorization committee staffs on how much agencies are spending on this effort. OMB is working with the Hill to come up with a reporting requirement that satisfies both parts of the government. The next update to the cost estimates for Y2K will occur in May. We also discussed a draft paper on architecture that OMB has put together based on last year's response to the Raines Rules memo. Comments from the CIOs are due back to OMB by March 26th. We hope to put out final guidance on architecture by early May.

Encryption -- The Administration testified twice this week (Senate and House). We are beginning to sense some stirrings of recognition that our policy is at least worth serious discussion. We are still on target to send up an Administration bill by the end of the month. Meanwhile our roving encryption envoy David Aaron was in town and tells us that major trading partners are beginning to come around to key recovery also.

Post FTS-2000 -- The debate continues over GSA's revised program strategy -- with several questions on the strategy and the reasons for its change coming up during the March 20 House Appropriations Subcommittee hearing. In response to Chairman Burton's request that GSA not release the RFP until May 2, Michael Deich and I recommended to GSA that Dave Barram send a letter to the Chairman agreeing to the delay and stating GSA's intention to form a working group to make recommendations. This working group would consist of GSA, agency, and Congressional staff and would have until April 14 to provide Barram with recommendations for strategy refinements -- using the "February strategy" as the starting point for the discussions. We believe GSA will agree to this approach.

#### Miscellaneous

Response to Thompson on Reg Costs in Strategic Plans -- My staff and I joined the fray on drafting a reply to Senator Thompson's request that agencies include information on cost and benefits in their strategic plans. We have suggested that it generally makes more sense to include such information in an annual performance plan rather than a five year strategic plan. It not easy to sort out the concerns, or the competing drafts, of NRD, OIRA, and the GPRA implementation group -- not to mention EPA. Stay tuned.

OECD Visits -- Imet with Joanna Shelton, Deputy Secretary-General of the OECD, who is heading up the OECD project on Regulatory Reform. The various directorates have produce eleven sectoral/thematic papers, for which various agencies of the U.S. Government have provided conflicting comments. State, USTR, CEA, Commerce, and OMB have been supportive because they see it as a way to open up trade opportunities for the U.S., it is good government, and we have a good story to tell. The regulatory agencies are concerned that their opponents on the Hill will somehow use the report against them. She expressed hope that the U.S. would come up with a unified position on the final summary and recommendations paper that has just been circulated. I said I would make sure that that would happen in time for John Morrall's trip to Paris for the April 8 meeting on the final paper. He is working with State to draft a U.S. position paper.

#### Outreach and Interviews

Interview with Washington Technology Magazine re CIO Council.

032197.DOC

\*

March 25, 1997

MEMORANDUM FOR CHIEFS OF STAFF

FROM: RONDA JACKSON

SUBJECT: CHIEFS OF STAFF BREAKFAST

1. We are collecting checks today to pay for COS Breakfast. Please send your \$75 checks written out to the White House mess to Ronda Jackson today. We are still missing checks from State, Treasury, DOL, HHS, HUD, DOT, Energy, Education, VA, EPA, CEA, UN, USTR, ONDCP, GSA and NEC.
2. If there are any Schedule C or appropriate career staff who are interested in working at AmeriCorps to help prepare for the Presidents Summit for Americas Future scheduled for April 27-29 in Philadelphia, please fax those names and phone numbers to Bibb Hubbard asap at 456.6704.
3. The next Inter-Agency Early Learning Conference working group meeting will be held today at 11:30-12:30 p.m. in room 476 of the OEOB. Reports regarding this matter were due yesterday to Elena Kagan. Please make sure that you have a representative at the meeting.
4. There will be an Inter-Agency meeting for the Presidents Summit on Americas Future today at 11:00 a.m. in room 472 of the OEOB. Please make sure that you have a representative at the meeting.
5. There is a change in the Weekly Report schedule this week. Reports will be due this Wednesday, March 26 at 12:00 p.m.
6. We need lists of suggested invitees to the Chicago Bulls event today. Please get them to Anne McGuire at 456-6704.
7. There will be a conference call on Thursday, March 27 at 11:00 a.m. for all agencies who have staff members that carry guns as a requirement for their job. DOJ will be conducting a briefing on the implementation of the trigger lock order. The code for the call is 4590.
8. We need a list of names of staff persons from your agency to attend the Easter Egg Roll on Monday, March 31. These people will be entitled to bring three additional guests, one of which must be a child age 3-6. Please fax your list today to Anne McGuire at 456.6704.
9. There will be a Cabinet Meeting on Thursday, April 10 to discuss the Presidents Welfare to Work Initiative. Cabinet members should be prepared to discuss what their agency is doing to amplify this initiative. The reports outlining your agency's welfare to work plans are due April 7, including a one-page summary, to Bob Stone at NPR at 632.0390 fax. If you have any questions please contact Susan Valaskovic at 632.0150 ext. 117.

0.

MEMORANDUM TO FRANKLIN D. RAINES

FROM: SALLY KATZEN

SUBJECT: WEEKLY REPORT

Status of activities covering the weeks of January 13-17 and January 20-24, 1997:

Regulatory Reform -- Last week John Hilley convened a meeting with interested WH policy offices to discuss our reg reform strategy. The consensus was that we will have to play at some point, and to some degree, but a few of the offices were quite emphatic that while we may be playing on the Hill with our right hand, our left hand should be vigorously signaling that we do not need a comprehensive bill and instead should continue doing what has been successful in the past -- tackling this issue statute by statute, program by program. This strategy will likely lead to everyone's interpreting our bottom line differently, and undoubtedly we will need to reconvene in a few weeks to sort through this again. Meanwhile, we are helping Cabinet Affairs set up a meeting of the chiefs of staff from the interested agencies to discuss strategy and ensure that we are all singing off the same song sheet.

Bliley & McIntosh Document Requests -- On January 15, we sent our response to Rep. Bliley's letter asking various questions about our review of EPA's ozone and particulate matter air standards. This was a labor intensive effort. Damus did a brilliant job of protecting us (me), and EPA was not unhappy with the finished product. No sooner did we send out the response to Bliley than we received another set of questions and a document request from Rep. McIntosh. This deadline is absurdly short. We are working hard, but not at the expense of our other work, to answer the letter as soon as possible.

Bond and Shelby Request -- We responded to a letter from Senators Bond and Shelby about the basis for our conclusion that OSHA's methylene chloride final rule (published January 10) met the conditions set by the Treasury-Postal subcommittee in report language for the FY 1997 OBRA. The subcommittee had asked OMB to ensure that OSHA had complied with the Regulatory Flexibility Act, and that OSHA's rule was consistent with related EPA rules -- issues that we were looking at in our review in the first instance. We have sent the Senators the regulatory file, which includes OSHA's initial rule and analysis, changes to those documents, and the public comments received.

Third Year Report -- We continue to distribute our Third Year Report to the Congress, the press, and various private sector groups (industry and trade associations, think tanks, and environmental, labor, and consumer groups). We have been receiving letters of commendation from inside and outside the Administration, and yesterday we received a favorable story in the trade press (BNA). We are beginning to receive more calls for copies. This just might bump "It Takes a Village" off the best seller list.

## Regulations

See attached Radar Report for current and expected inventory.

USDAs Avocado Rule -- As you know, we sent through you a "heads-up" memo to Erskine Bowles earlier this week. At Sylvia Matthewss request, we sent a second memo with additional information on the rule, as well as the trade and political implications of moving forward. It looks like it may not be necessary to set up a meeting on this one. I will let you know what is happening.

EPAs TRI Rule -- We, along with other WH policy offices, are meeting with EPA to discuss the legal and policy issues associated with EPAs draft final rule to expand the classes of industries required to report to the Toxic Release Inventory. Im not sanguine that we will be able to resolve these issues without elevating them.

EPA's Ozone and Particulate Matter Air Standards -- T.J. and I met with Mary Nichols, Katie McGinty, and other WH policy offices to discuss next steps. Our discussion focussed on: (1) the requests from outside groups (including State and local groups) for an extension of the public comment period; (2) the current June 1997 court deadline to promulgate the particulate matter standard; and (3) the need to develop specific proposals for implementing the standards. Meanwhile, we have sent over our questions for EPA to work on during the public comment period. The status of my testifying at Congressional hearings is still not clear.

DOEs Refrigerator Rule -- Over the past two weeks, I have met with representatives of all the major interested parties to hear their views for and against a draft DOE final rule setting more stringent efficiency standards for new refrigerators and freezers. Whirlpool and several environmental and energy efficiency groups favor the rule as DOE has drafted it. The other major manufacturers (GE, Maytag, Amana, and Electrolux) favor an alternative that would require a somewhat more stringent standard at a later date (2003 instead of 2000). We are working with DOE to see if we can craft an approach that would allow the DOE-preferred option to go forward while minimizing any undue burdens on the other manufacturers. Again, Im not sanguine we will be able to resolve this one without help.

ADA/Veterans provisions in COTS contracts -- We were involved in a meeting Jack Lew held with Steve Kelman, Ken Apfel, Bob Damus and senior officials from DOL, DOD, and VA about waiving DOL affirmative action regulations for the disabled and Vietnam veterans for government contracts to purchase commercial, off-the-shelf items. DOD and OFPP would like to reduce the number of requirements that such contractors need to follow to make procurement more efficient; DOL and OMBs HRH are concerned that waiving these provisions would have a detrimental impact on the affected groups and would send the wrong signal about our committment to these groups. Jack asked DOD to provide more evidence as to why they thought that waiver of these provisions would in fact lead to more efficient procurements. DOD agreed to try to provide this in a few weeks time, and Jack will hold an internal meeting to discuss next steps.

DOLs "Joint Employment Rule" -- We continue to struggle with a draft final rule setting forth the basis for determining when farmers should be held jointly liable with farm labor contractors for violations of the Migrant Seasonal Agricultural Worker Protection Act. USDA is concerned with DOLs approach. We are trying to find a rational compromise.

## Information Policy/Technology

Encryption -- The Deputies made some progress but reached no final agreement on draft legislation. I met with Alice Rivlin and Fed staff to discuss the implications of our policy for the banks. They will be getting back to us with their ideas on how we can encourage the banks to use commercial key recovery products and help create a market.

Y2K -- We are receiving cost and schedule data from the agencies for inclusion in our report to Congress. We will send the draft report through the second floor next week so that it can accompany the Budget. We met with OPM on its Y2K problems last week. Also met with USDA where we discussed the National Finance Center in New Orleans, which processes payroll and other finance activities for a large portion of the Government and the Food Stamp Programs. More meetings to be scheduled. . . .

WIPO Deputies -- I attended an NEC Deputies meeting on January 17 to review the results of the recently completed World Intellectual Property Organization (WIPO) treaty negotiations. Two treaties were successfully concluded that would extend copyright protection to works distributed in a digital environment while preserving traditional concepts of fair use. Minimal, if any, implementing legislation will be necessary. No agreement was reached on a third treaty that would provide new protection for databases. There are serious concerns regarding the need for such protection and its potential impact on science and education. The Administration will not support database protection legislation should it be introduced in this Congress.

Post-FTS 2000 -- On January 8, Senator Stevens wrote to you expressing concerns with GSAs conduct of the program that will replace the current FTS 2000 government-wide long distance voice and data telecommunications services contracts. Senator Stevens requested that GSA delay releasing the RFP until these issues are resolved. OIRA and RMO staff are preparing a response to this letter, which we will have to you next week. OMB is generally in agreement with GSA's strategy.

CIO COUNCIL -- John Koskinen, Steve Kelman, and I were at the Chief Information Officers Council meeting this past Wednesday. I discussed an upcoming meeting on government printing that I plan to hold. The first task of this group, to be coordinated by representatives of the Interior Department and GSA is to collect trend and baseline data regarding the volume of printing and duplicating now being procured, along with an assessment of what portion of this printing and duplicating involves information disseminations to the public. The second task, to be coordinated by the Defense and Treasury Departments, will be to develop initial business models for the future that maximize the benefits of increased flexibility.

I also discussed OMB bulletin 97-03, which instructs Executive departments and agencies to prepare and implement an Information Streamlining Plan (ISP) and an Information Collection Budget (ICB). These two reports are due to OMB by April 14.

I also distributed a copy of the draft Y2K report we plan to send up to the Hill with the President's budget. The CIO's comments were due on January 24. I also gave them a copy of the Table we plan to include in the budget that fulfills our responsibilities under the Information Technology Management Reform Act of 1996 (ITMRA). All comments on that document have been received.

Steve Kelman and I also discussed a draft memorandum that provides management guidance to agencies on the use of multi-agency contracts for information technology under the ITMRA.

Finally, the CIO Council had a good discussion on OMB M-97-02, which will help OMB and the CIO Council in future discussions of major systems.

Interoperability Committee of the CIO Council -- My staff and I met with Anne Reed, acting CIO of USDA, in her new role as chair of the Interoperability Committee. We had a rather free-form discussion about the many issues that Anne will have to address.

#### STATISTICAL POLICY

Annual Report on the Status and Well Being of Children and Youth -- We met this week with Elaine Kamarck, Elena Kagan, and senior folks from HHS to discuss the next steps in inaugurating an annual report to the President on the status and well being of our Nation's children and youth. The report will provide about two dozen indicators on young people's family characteristics, economic security, health and health care, behaviors, and education; monitor these indicators over time; and stimulate improvements in information collection. The production of this report represents an outstanding example of collaboration among the statistical agencies. We expect to institutionalize this report, which will parallel in some ways our principal economic indicators, via an executive order or similar means. It may get a few words in the State of the Union address as well.

#### Miscellaneous

Budget & CEA Annual Report Chapters -- During the past two weeks, we helped the RMOs drive Larry Haas crazy putting together the Budget volumes. We developed an Analytical Perspectives chapter on Federal statistics, provided pieces on information technology for chapter IV and elsewhere, and integrated information on regulations and paperwork burden into chapter VI. We also reviewed drafts of the CEA annual report.

#### Public Appearances and Interviews

Was interviewed on the Y2K Investor Radio Program and by Computer World Magazine.

Also interviewed by the New York Times on regulatory reform.

012497.DOC

## BUDGET ROLL-OUT AND AMPLIFICATION

January 26-February 7, 1999

(DRAFT--January 28, 1999, at 5:30pm)

TUESDAY, JANUARY 26 (Done)

General/Print:

\*Regional Press on Women Mayors Social Security meeting

WEDNESDAY, JANUARY 27 (Done)

Leg. Affairs:

\*3:45pm--Social Security Briefing of Ways &amp; Means Democratic staff in 1139 Longworth HOB

[Surrogates: Mathews(c), Sperling(c), Apfel(c), Summers(c)]

\*5:00pm--Social Security Briefing of Finance Democratic staff in Dirksen 215 [Surrogates:

Mathews(c), Sperling(c), Apfel(c), Summers(c)]

THURSDAY, JANUARY 28 (Done)

Cabinet Affairs:

\*11:00am--Conference call for agency Communications Directors

[Surrogates: Lockhart(T); Palmieri(c), Ricci(c), Spector(c)]

\*1:30pm--Conference call for Regional Administrators [Surrogates: Palmieri(c), Spector(c),  
Lori McHugh(c)]

Leg. Affairs:

\*2:30pm--Social Security briefing for Blue Dogs [Surrogates: Joe Minarik(c), Goss(c)]

\*4:00pm--Social Security briefing for House and Senate Budget Democratic staff in HC-9

[Surrogates: Mathews(c), Sperling(c), Apfel(c), Wilcox(c)]

FRIDAY, JANUARY 29

General/Print:

\*10:15am--Social Security briefing at National Press Club [Surrogate: Sperling(c)]

Leg. Affairs:

\*9:15am--Social Security briefing for Senate Task Force Members in SD-562

[Surrogates: Lew(c), Sperling(c), Apfel(c), Stein(c)]

\*10:30am--Joint briefing for House and Senate Democratic Budget/Appropriations/Ways &  
Means/Finance staff in HC-9 [Surrogates: Mathews(c), DeSeve (c), Joe Minarik(c), Dick  
Emery(c), PADS(c), WH Leg. Affairs(c) and OMB Leg. Affairs(c)]

\*12:00pm--Hispanic Caucus conference call [Surrogates: Lew(c), Chow(c), Murguia(c)]

\*1:00pm--Briefing for Senate Democratic AAs, LDs and Leadership staff in S-211, Capitol  
[Surrogates: Mathews(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADS(c), WH Leg.  
Affairs (c) and OMB Leg. Affairs(c)]

\*2:00pm--Social Security briefing for Finance Committee Republican staff

[Surrogates: Sperling(c), Apfel(c), Stein(c)]

\*3:00pm--Briefing for House Democratic AAs, LDs and Leadership staff in HC-5

[Surrogates: Mathews(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADS(c),  
WH Leg. Affairs(c) and OMB Leg. Affairs(c)]

WEEK OF JANUARY 23-29

Television:

\*(T) Interviews for news and business shows [Surrogates: Lew(T), Mathews(T),

Sperling (T), Yellen(c)]

Radio:

\*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

SUNDAY, JANUARY 31

Television:

\*(T) Sunday morning shows [Surrogates: Lew(T), Mathews(T), Sperling (T)]

MONDAY, FEBRUARY 1

\*7:00am (embargoed until 8:00am)--Wires get budget

\*7:30am--OMB Leg. Affairs distribution of FY2000 Budget

\*9:00am--Conference call with Cabinet [Surrogate: Lew(c)]

\*10:00am--Budget and other amplification materials will be put up on WH web site

\*10:15am--BUDGET ROLL-OUT EVENT (East Room)

\*11:45pm--Press Budget briefing in OEOB 450 [Surrogates: Lew(c), Mathews(c), Rubin(c), Sperling(c), Yellen(c)]

\*12:00pm--Dept. of Education and EPA begin briefings

\*1:00pm--Cabinet Agencies begin briefings

\*1:00pm--Roundtable with budget reporters (OMB organizing) [Surrogate: Lew(T)]

\*1:00pm--OPL conference call for regional constituency group leaders (other offices can feed in) [Surrogate: Mathews(c)]

\*1:30pm--Technical briefing for House and Senate bipartisan Budget/Appropriations in SD-124 [Surrogates: Chuck Kieffer(c), Dick Emery(c), Joe Minarik(c)]

\*2:00pm--IGA briefing for DC representatives from 50 states, DC representatives for cities and counties, Tribal leaders and state legislators in the Truman Room of the White House Conference Center [Surrogate: Mathews(c), DeSeve(c)]

\*3:00pm--White House briefing for national constituency group leaders in OEOB 450 (OPL organizing and other offices can feed in) [Surrogates: Lew(T) or Mathews(T), Gotbaum(c), PADS(c)]

\*4:00pm--IGA conference call with 20 key mayors [Surrogates: Lynn Cutler(c), Gotbaum(c), Lewis(c)]

\*4:00pm--Joint House and Senate Bipartisan Staff Briefing in SC-5

[Surrogates: Mathews(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADS (c) and WH Leg. Affairs staff(c)]

\*4:00pm--Climate Change Budget briefing in OEOB 450 [Surrogates: Stern(c), George Frampton(T), Elgie Holstein(T), Neal Lane(T)]

\*(T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]

\*(T) Targeted calls to editorial boards, pundits [Surrogates: Lew(T), Mathews(T), Sperling(T), WH Senior Staff]

Television:

\*(T) Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

\*(T) Interview for Lehrer News Hour [Surrogates: Lew(T)]

\*(T) Interview on cable news [Surrogate: Echaveste(T)]

Radio:

- \* (T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling (T)]
- \* (T) Interview with Bloomberg Business Radio [Surrogate: Lew(T)]
- \* (T) Interview with NPR Marketplace [Surrogate: Lew(T)]
- \* (T) Interviews with radio [Surrogates: WH Senior Staff]

Specialty Media:

- \* 1:45pm--Conference call with Latino newspapers [Surrogate: Echaveste(c)]
- \* Interviews for Hispanic TV [Univision (1:00pm), Telenoticias (1:10pm), Telemundo (1:20pm)] [Surrogate: Echaveste(c)]
- \* Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]
- \* Conference call with African American newspapers [Surrogate: Ben Johnson(T)]
- \* (T) Conference call with Asian American newspapers [Surrogate: Barbara Chow(T)]

Internet Media:

- \* Time TBD--Interview with Time Magazine.com on budget (story will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

TUESDAY, FEBRUARY 2

General/Print:

- \* (T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]

Television:

- \* (T) Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

Radio:

- \* (T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

Specialty Media:

- \* Interviews for Native American media [Surrogate: Lynn Cutler(T), Mathews(T)]
- \* Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]

Internet Media:

- \* 7:30pm(EST)--Live interview with MSNBC On-Line on budget [Surrogate: Reed(T)]
- \* Time TBD--Q&A interview with Washington Post.com on budget (answers will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

Cabinet Affairs:

- \* 8:30am--Briefing for Cabinet Chiefs of Staff [Surrogates: DeSeve(T), Gotbaum(T), Sperling(T)]

Leg. Affairs:

- \* 9:30am or 10:00am--Senate Finance Hearing [Surrogates: Rubin(c)] (Mathews will accompany Sec. Rubin)
- \* 10:00am--Congressional Testimony at Senate Budget Committee Hearing [Surrogates: Lew(c)]
- \* 1:00pm--Democratic Senators Weekly Lunch [Surrogates: Lew(c), Stein(c)]
- \* 4:00pm--Briefing for House Budget Committee Democrats [Surrogate: Lew(c), Mathews(c)]

## First Ladys Office:

\*(T) Briefing for Arts community [Surrogates: Verveer(T), Lovell(T)]

TUESDAY, FEBRUARY 2 or WEDNESDAY, FEBRUARY 3

## Cabinet Affairs:

\*(T) Two or three agency briefings for Sub-Cabinet [Surrogates: TBD]

WEDNESDAY, FEBRUARY 3

## Leg. Affairs:

\*10:00am--House Budget Committee Hearing [Surrogate: Lew(c)]

\*10:00am--Senate Budget Committee Hearing [Surrogates: Rubin(c)] (Mathews will accompany Sec. Rubin)

\*4:30pm--Pre-brief for House Ways & Means Democratic staff [Surrogate: Mathews(c)]

WEDNESDAY, FEBRUARY 3 or THURSDAY, FEBRUARY 4

## Womens Office/Leg. Affairs:

\*2:30pm--Budget briefing for House Womens Caucus [Surrogates: Mathews(c)]

THURSDAY, FEBRUARY 4

## Leg. Affairs:

\*10:00am--House Ways & Means Hearing [Surrogates: Rubin(c), Mathews(c)]

## CEA:

\*Release of the 1999 Economic Report of the President (will emphasize budget and economic agenda)

FRIDAY, FEBRUARY 5

## General/Print:

\*(T) Roundtable with regional outlets [Surrogates: Sperling(T), Lew(T)]

\*(T) Breakfast with pundits, columnists [Surrogates: Sperling(T), Lew(T)]

## Leg. Affairs:

\*National Conference of State Legislators [Surrogates: Lew(c)]

WEEK OF FEBRUARY 1-7

## General/Print:

\*Regional editorial board mailings with State-by-States

\*Roundtables with regional outlets (when State-by-States are releasable)  
[Surrogates: Lew(T), Sperling(T)]

## Television:

\*6:00pm--Lehrer News Hour Interview [Surrogate: Sperling(T)]

## Specialty Media:

\*Specialty press conference calls [Surrogates: TBD]

\*Specialty press mailings to Native American, Health, Seniors, Disability, African American and Hispanic media

SUNDAY, FEBRUARY 7-TUESDAY, FEBRUARY 9

\*House Democrats Retreat (POTUS and VP attending)

## SURROGATES

Gene Sperling

Jack Lew

Sylvia Mathews

Janet Yellen

Bruce Reed

Elena Kagan

Josh Gotbaum

Maria Echaveste

Sally Katzen

Larry Summers

Larry Stein

Ed DeSeve

Sec. Rubin (?)

OMB Program Area Directors (PADS)--Michael Deich, Barbara Chow, Elgie Holstein,  
Dan Mendelson and Bob Kyle

## PAPER NEEDED FOR BUDGET ROLL-OUT

(Communications will serve as clearinghouse for distribution of paper to WH Offices)

Overview Talking Points (NEC) (Friday at Noon)

Economic and Fiscal Record (NEC) (Monday)

Issues Paper (OMB)--(Monday)

Education and Training

Health

Research and Technology

Environment

Community Empowerment

Legal Immigrants

Crime

Working Families and Child Care

Defense

Tobacco

Race

Accomplishments (Done)

Sample Op-eds and Letters to the Editor (Communications)

- A. I. A.
- 1. 1. a. (1) (a) i) a)
  
- I. (1) (a)
- A.
- 1. a.
- I. i) a)

January 4, 1998

MEETING ON UNIFIED SURPLUS AND SOCIAL SECURITY

DATE: January 5, 1998  
TIME: 1:00 p.m. - 2:00 p.m.  
LOCATION: Cabinet Room  
FROM: Gene Sperling

I. PURPOSE:

To continue our discussions with you on options relating to the unified surplus, Social Security and retirement security.

At the beginning of the meeting, there will also be a pool spray during which you will announce our new (lower) deficit projections if OMB feels it is ready to release the figures at that time.

II. BACKGROUND:

The projected unified surpluses are attracting increased attention, as evidenced by their prominence in the news this weekend. A crucial part of your State of the Union address will be what you say about our approach to the unified surplus and to Social Security reform. As we have examined the possible options and further refined our thinking, the views of many advisers have evolved significantly. The purpose of this meeting is to provide you with three specific options on using the unified surplus to bolster the Social Security system.

III. PARTICIPANTS:

The Vice President  
Erskine Bowles  
Frank Raines  
Gene Sperling  
Secretary Rubin  
Jack Lew

Paul Begala  
Larry Summers  
Janet Yellen  
Ron Klain

Rahm Emanuel  
Sylvia Mathews  
John Podesta  
Ken Apfel  
Elena Kagan  
Bruce Reed  
John Hilley  
Peter Orszag  
Maria Echeveste

IV. SEQUENCE OF EVENTS:

- You will have a pre-briefing before the meeting
- There will be a pool spray at the top of the meeting in the Cabinet Room
- You will be meeting with your advisors.

V. PRESS COVERAGE:

Pool spray at the top of the full meeting.

VI. REMARKS:

Brief remarks on new deficit projections (if OMB is ready to release them).

VII. ATTACHMENTS:

Background packet on Social Security. Many of your previous questions from our earlier meetings are addressed in this packet.

A. I. A.  
1. 1. a. (1) (a) i) a)

I. (1) (a)  
A.  
1. a.  
I. i) a)

January 12, 1998

MEETING ON UNIFIED SURPLUS AND SOCIAL SECURITY

DATE:January 13, 1998  
TIME:1:30 p.m. - 2:30 p.m.  
LOCATION:Cabinet Room  
FROM:Gene Sperling

I. PURPOSE:

To continue our discussions with you on options relating to the unified surplus, Social Security and retirement security. We will discuss how the issue will be presented in the FY 1999 budget, what you could say in the State of the Union, what processes we would undertake for 1998 and how we will achieve reform in 1999.

II. BACKGROUND:

The projected unified surpluses are attracting increased attention, as evidenced by their prominence in the news. A crucial part of your State of the Union address will be what you say about our approach to the unified surplus and to Social Security reform. As we have examined the possible options and further refined our thinking, the views of many advisers have evolved significantly. The purpose of this meeting is to discuss further our options on using the unified surplus to bolster the Social Security system, and the processes for advancing the reform effort.

III. PARTICIPANTS:

The Vice President  
Erskine Bowles  
Frank Raines  
Gene Sperling  
Secretary Rubin  
Jack Lew  
Paul Begala  
Janet Yellen

Ron Klain  
Rahm Emanuel  
Sylvia Mathews  
John Podesta  
Ken Apfel  
Elena Kagan  
Bruce Reed  
John Hilley  
Peter Orszag

IV. SEQUENCE OF EVENTS:

-- You will be meeting with your advisors.

V. PRESS COVERAGE:

None

VI. REMARKS:

None

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on Proposed EEOC Rule Re: Federal Employee Complaint  
Procedures

We are about to conclude review of a proposed Equal Employment Opportunity Commission (EEOC) rule revising how discrimination complaints made by Federal employees are handled. The rule, which aims to streamline and make more fair the administrative process set in motion once an employee files a discrimination complaint against an agency, would, among other things, (1) make the decision of an EEOC administrative judge (AJ) final, subject to an appeal to the full Commission (the effect of this would be to eliminate an agency's current authority to reject an AJ finding of discrimination) and (2) increase the time period for which an employee can be awarded attorneys fees.

Many of the agencies are concerned that the rule would create a more litigious process, which would make it harder to dispose of frivolous and/or minor complaints. The civil rights community will either be supportive or argue that the EEOC should have gone further. We believe the proposed rule strikes an appropriate balance and sends the right message.

Please let me know if you have any questions.

cc: Maria Echaveste  
Rahm Emanuel  
John Hilley  
Micky Ibara  
Ron Klain  
Thurgood Marshall, Jr.  
Ann Lewis  
Sylvia Mathews  
John Podesta  
Bruce Reed  
Gene Sperling  
Lynn Cutler  
Elena Kagan  
Victoria Radd  
Barry Toiv  
Michael Waldman  
Barbara Chow  
Larry Haas



## M E M O R A N D U M

June 29, 1998

TO:Rahm Emanuel

FR:Chris Jennings

RE:Patients Bill of Rights Status

cc:Sylvia Matthews, John Podesta, Bruce Reed, Larry Stein, Gene Sperling, Ron Klain, Elena Kagan, Janet Murguia, Chuck Brain, Sally Katzen

This memo responds to your request for an up-to-the-moment status report on the House Republican Leadership's Patients' Bill of Rights. It also outlines positioning options for the President's consideration on the legislation and, more specifically, on the enforcement provisions.

House Republican Patients Bill of Rights. The reaction to the House Leadership's announcement of their intention (they have provided no details) to introduce a Patients' Bill of Rights has been almost universally negative. The base Democrats, the consumer advocates, and the providers have labeled it a "sham;" the insurers and big business community are criticizing it as overly regulatory. Notwithstanding these reactions, it is remarkable how far the Republicans apparently have moved toward the President's position.

Status of Policy. With the exception of the access to specialist/out-of-network referral, continuity of care, and requirement for financial disclosure provisions, the House Republicans appear to have included virtually every one of the consumer protections recommended by the President's Quality Commission. They have even (reportedly) included a Federal Court-enforced remedies provision that has a damages cap between \$100,000 and \$250,000. Less than two months ago, many conservative Democrats and most Republicans would have labeled the current Republican plan as something between excessively regulatory and a Government takeover of the health care system. In fact, just 4 months ago, the Presidents Quality Commission would not even touch the issue of enforcement. The political ground has obviously shifted dramatically.

Administration Reaction of Republican Proposal. We have taken the position that the Republican proposal both affirms the President's longstanding position that strong, Federal, and enforceable legislation is needed and confirms (both through their bill's added and missing provisions) that the Republican Leadership is not serious. In short, we say that any bill without all of the Quality Commission's protections and a strong enforcement provision is nothing more than a "bill of goods." We also charge that any bill that piles on "poison pill" provisions (like MEWAs, arbitrary caps for medical malpractice, and MSAs) is designed to kill, rather than enhance, the chances of an acceptable bill emerging. We will find out how or if the Republicans respond to our criticism when they introduce a bill -- which will not happen until after the July 4th recess.

The Dingell/Ganske/Kennedy Bill and Democratic Positioning. The Democratic Leadership and base Members have been even more critical of the Republican plan than us. Their bill starts with more provisions than were recommended by the Quality Commission and, particularly in the absence of CBO cost estimates for their bill, they are extremely comfortable criticizing the much less comprehensive Republican plan.

The Democratic plan builds on the Quality Commission's recommendations by adding, among other provisions, requirements for ERISA remedies, a medical necessity provision (that prohibits any insurer from denying coverage for any service that a physician deems is medically necessary), mandatory clinical trial coverage, mandatory 48-hour hospital coverage following a mastectomy, mandatory coverage for breast reconstruction following a mastectomy, required access to prescription drugs that are not on a plan's formulary if a doctor deems necessary, and a "whistle blower" provision, which protects health professionals against retribution if they report and document quality problems. Although most of these provisions are generally defensible policy and certainly politically attractive, they do add costs (at least 2 percent higher premiums than the Quality Commission's recommendations.)

Congressional Budget Office (CBO) Estimate. The next big hurdle for the Democrats will be next Wednesday's or Thursday's expected release of the CBO premium estimates of the Dingell/Ganske bill. We anticipate that the premium will be projected to increase by about 4 percent for the average employee, which amounts to about \$6 a month. We are working on a positive roll-out strategy for this estimate to buttress our claim that the benefits of any such legislation are more than worth the modest cost. If all agree in the White House, we might want to have the President (next Monday?) or the Vice President announce the generally good-news estimate during the next week.

Likely Republican Response to CBOs Scoring of Dingell/Ganske Bill. The Republican (and the insurer and big business) response to the CBO estimate will be swift and critical. They will cite overall health care expenditure increases (that will amount to billions of dollars, although a small fraction of the nations trillion dollar health expenditures base) and flawed coverage loss projections (probably in the neighborhood of 200,000 to 2 million Americans.) It is important to point out that the likely CBO cost estimate for the Republican bill will be much lower than the Dingell bill -- about one fourth of it (1 percent). If the opponents cost and coverage argument takes hold, it could seriously undermine momentum for the Patients Bill of Rights. We are currently in the process of working on a strong, message document, as well as some Qs & As, to help ensure that we get a positive message from the CBO numbers.

"Blue Dog" Democrats Could Create Difficulty. Finally, it is important to note that some "blue-dog" House Democrats may seriously consider joining up with the Republicans when and

if their bill goes to the floor. They are generally most influenced by the small business lobby and the Republican bill has received its only real support from the NFIB. Similarly, the Senate is populated by numerous Democrats who are and always will be uncomfortable with standing by Senator Kennedy. As a consequence, if the Senate Republicans feel pressured to develop their own Patients Bill of Rights (and Chafee is now drafting a bill), there may be a number of Democrats who could sign on, particularly if the "poison pill" provisions are dropped and a few more patients' protections are added.

Enforcement/Liability/Remedies Provision.

Because of the popularity of HMO regulation, it is probable that a consensus can be achieved on most if not all of the traditionally-desired patient protections. Decisions on what protections make it in will be linked to two variables: CBO cost estimates and perceived political pain associated with opposition to popular provisions. With the possible exception of some of the unrelated "poison pill" provisions mentioned earlier, the only seemingly apparent "line-in-the-sand" issue that could define the difference between Republicans and Democrats might be the issue of need for strong remedies for those aggrieved parties that have suffered serious health consequences or death because a health plan wrongly denied care.

To date, the Administration has consistently stated that this legislation must include a strong enforcement provision -- that a "right without a remedy is no right." To provide us with some flexibility and consistent with our directions from senior staff, we have never locked ourselves into a particular approach.

Both the Dingell-Ganske and the Norwood bills include state-court enforced liability provisions. Simply stated, the bills explicitly clarify that the Employee Retirement Income Security Act (ERISA) would no longer pre-empt or supersede state laws that provide for a right of action against a health plan that has denied care to a patient. Without this provision, the only current remedy a patient can obtain through ERISA law is payment for the cost of the benefit he or she should have had. In other words, for the 122 million Americans in ERISA covered plans, patients cannot get any compensation for treatment costs, pain and suffering, or lost wages.

Current Law Example: Dr. Welby wanted to refer Mrs. Jones to a specialist to conduct a needle biopsy to determine if she has cancer. The plan refused the referral and denied any coverage for the test. The patient, as a consequence, did not go to the specialist or take the test. Six months later, she came back with a more noticeable lump. Dr. Welby argued with the HMO to cover the specialist and the needle biopsy; this time, the HMO paid for it. The specialist then found the patient had a cancer that had spread throughout her body and that it was now untreatable. Had they had the test results 6 months earlier, they could have successfully treated the cancer. Now the patient must undergo a radical mastectomy and, even with that, her survival odds are very low. She is furious and asks her lawyer to sue the HMO. Her lawyer tells her she can, but the only thing she can get compensated for is the cost of the original cancer screening test. She can collect no damages to pay for the mastectomy, the chemotherapy and any other treatment her doctor may order. She gets no compensation for the lost wages from the job she must leave and she gets no enumeration for all the pain and suffering she is going through as a consequence of her HMO denying her treatment.

Fears of Business and Labor (Taft-Hartley) Community. The prospect of opening up health

plans to law suits at the state level petrifies both the business and the Taft-Hartley plans. (Labor has been quiet to date because it is poor P.R., and would hurt our chances of passing a good bill.) They fear that the trial lawyers will ride herd over their plans and that costs will balloon (in terms of lawsuit settlements and/or because their health plans will be so nervous that they will stop making even appropriate denials).

Business-underwritten analyses are projecting an unbelievably high 10-30 percent premium increase. For the last two months, this community has used highly dubious rhetoric that state-based enforcement would leave many businesses no choice other than to drop their health benefits. But the real underlying fear is modifying, in any way, the protections ERISA affords against suits from the states and from aggrieved employees on any benefit an employer provides (health, pensions, leave, etc.).

CBO Projections Do NOT Confirm Concerns of Business Community. Notwithstanding the fears of the liability provisions of the House bills and unprecedented lobbying by the business, insurer and Republican Leadership, however, the preliminary (not for attribution or dissemination) projections from CBO seem to assume that the existence of a state-based right of action would increase premiums by only about 1 percent, about one-fourth the total premium hike projected for the Dingell-Ganske bill. (This figure will not be released by CBO until after it reports on the Dingell bill, which will take place sometime in the next week.) CBO believes that most of the suits are now being directed at doctors and that any new suits against managed care plans would generally substitute for -- not add onto -- what is already out there.

Regardless of the true number, the opponents will pull out all of the guns to stop any state-based liability provision from becoming law. They will use inflated cost projections and attempt to terrify the public into believing that the result of any Patients Bill of Rights legislation will be more regulation, more costs, and a lot more uninsured -- as people will no longer be able to afford needed health insurance.

Enforcement Options. Although there will be numerous other provisions within any Patients Bill of Rights bill that will be debated fiercely, the main outstanding issue is how we resolve the enforcement provision. Remarkably, the issue now is not whether there will be an enforcement mechanism, but rather what that mechanism will be. There are numerous different approaches that could be taken, but there are three primary options:

(1) State-Based Remedies. The Norwood and the Dingell-Ganske et al Patients Bill of Rights bills have a provision that precludes health plans or businesses who make illegal denials of coverage that result in death or injury from using ERISA to pre-empt state-court enforced remedies (if a state has enacted laws that authorize such remedies). As mentioned above, although this provision is expected to receive a modest premium estimate from CBO, the business community will use all their resources to kill it. No one several months ago believed that any real enforcement mechanism had a chance of passing the Congress; however, buoyed by strong polling, comfort with this provision (and the right to sue HMOs) appears to be growing in the Congress, particularly with the Democrats.

Advantages:

- \*Already in bills that have received bipartisan support.
- \*Would not require any new Federal rules (e.g., provisions regarding whether this should include punitive damages, pain and suffering, caps, etc.)
- \*Relatively easy to explain; opponents have more difficult burden as to why HMOs have more

liability protections than practically any other industry in the nation. (Recent polls indicate strong support to allow individuals to sue HMOs).

\*If we want to have the bar set at a place that the Congress is unlikely to meet, this is probably the only one that meets that criteria WITHOUT us taking a new position and looking overly political.

Disadvantages:

\*Would make us the target of an all out campaign from the business and insurer industries over an issue that we could well lose in the end.

\*The well-financed, largely unanswered and highly orchestrated campaign may succeed in making this an issue about greedy trial lawyers, health care costs, and loss of insurance coverage.

\*There is a real chance that neither the House nor the Senate could pass this provision; pushing for such a provision would risk the whole bill, particularly if we make it a line in the sand issue.

\*Could risk criticism from some elites who may charge that we are grabbing too much too soon, and blowing any real chance of getting some important patient protection standards enacted into law.

(2) Federal Court Enforcement. A frequently raised alternative to the Dingell-Ganske state-court approach is to provide for a new Federal cause of action (with new rules and remedies) for aggrieved parties. This approach is being considered because it could assure greater uniformity than the state approach and to address employers fear of local bias in the state court system.

Advantages:

\*Probably more likely to get passed out of the Congress.

\*Although the business community would not like this approach, they could probably live with it -- particularly if caps on awards were provided.

\*Labor (Taft-Hartley plans) would likely support this approach.

Disadvantages:

\*Would require a great deal of deliberation as to how to structure the new Federal rules (e.g., should there be punitive, pain and suffering, caps, etc.?)

\*Assuming the pressure from the business community successfully produced award caps, this approach would make us much more vulnerable on similar medical malpractice cap issues.

\*It will be more expensive and time consuming for consumers to have their cases heard and resolved.

\*Federal courts have no experience in trying these cases.

(3) Civil Monetary Penalties -- either enforced through Federal Courts, Administrative Law Judges or HHS/Labor. To avoid time-consuming, jury-involved cases, a new system of civil monetary penalties could be devised for aggrieved consumers. Unlike traditional CMPs, the penalties paid by the plans would go directly to the aggrieved party -- not back to the courts or government.

Advantages:

\*Much more likely to pass the Congress as it seems to most resemble rumors about the Republican enforcement provisions. Face saving on both sides could be achieved by simply raising the CMPs that could be awarded.

\*Business would support since long, drawn-out court proceedings could be avoided and there would be no unpredictable punitive/pain and suffering settlements.

\*Consistent with current ERISA enforcement practices in other areas.

Disadvantages:

\*Individuals could not seek and obtain punitive/pain and suffering awards, which some would argue would most influence good behavior by health plans.

\*Because individuals could obtain, some would argue the remedy cannot be calibrated to actual harm.

\*If the Departments were to be enforcers of CMPs, we would have to obtain more administrative resources, which the Congress would likely not fund.

\*If we want to keep the bar high enough to make it impossible for Republicans to support, we would not choose this option.

In conclusion, because of the interest on the Hill on this issue, we need to fully recognize that our positioning on the Patients Bill of Rights may not be fully adopted by the Democrats on Capitol Hill. While much of our base is taking a "keep the bar high and do not pass legislation" position, our moderate Democrats generally want to see a bill passed. There are exceptions to this rule, but it is clear that we will have to keep close tabs of our Democrats to ensure that our position -- whatever it is -- is not undermined. Larry Stein believes we will need to continue to hold meetings with the Members and the staff to assure that outcome.

I hope this information is useful. In order to assure the Administration is on same page regarding positioning and policy strategy, I would advise we hold a meeting in short order to review options. In preparation, I am enclosing a one page side-by-side document comparing the provisions of the various proposals. Please call if you have any further questions.

**PS** Under ERISA you can now go to court to get benefits. You can also go to Labor, HHS or the state insurance commissioner (yapping) who can bring civil and monetary penalties as a look behind? If you are hurt in an ERISA plan, you can only get benefits. If you are not in an ERISA plan (like in an individual market or church plan), you can sue for violation of contract, and can recover damages as permitted by law.

A civil, monetary penalty. Go to court and have individual award. Genetic screening example. Most Federal actions can be brought in state court. Once genetic info goes out in public domain, the problem cant be addressed except through a money award. Defendant pays directly to the plaintiff. Like a Qui Tam suit. Not a trial for damages; it must be in front a jury.

Republicans: A thousand dollars up to a cap. Addresses on ongoing plan problem; not a damages problem.

Federal courts could run a trial with a jury. A new Federal cause of action with new Federal rules.

Alternatives:

6th Amendment problem. Trial for damages needs a jury. End up in state or Federal court with a damage.

Liquidated/schedule damages. Schedule of benefits/damages. You die, you get X much.

Federal cause of action. If you do this, you might have to specifically address the issue of punitive damages, pain and suffering, loss wages,

Beefed up Agency enforcement. Higher civil and monetary penalties. Right to requires info on compliance form insurers. Do market conduct investigations (the right to do this. Same as what state commissioners have. And money for enforcement

Do an Administrative Law Judge process rather than going to Federal court. Maybe faster and certainly and does not necessarily require a lawyer. Penalties but not damages. Modification of Republican proposal

MEMORANDUM FOR THE DIRECTOR

THE DEPUTY DIRECTOR

From: Barbara Chow/EIML Division

Subject: Weekly Report, through April 16, 1999

Date: April 19, 1999

Elementary and Secondary Education Act Reauthorization: I have been working closely with Bruce Reed and Elena Kagan to resolve the major issues concerning social promotion policy, as raised by the Civil Rights groups and the Kennedy staff. We hope to come to closure early this week. In addition, EIML staff and I continue to work with LRD to review and resolve issues on the many other parts the ESEA bill, in anticipation of the April 28 Presidential transmittal. Meeting that deadline will be very difficult, but ED Deputy Secretary Smith believes it is possible.

Food Stamps. We continued review of Food Stamp participation and cost declines. We are refining an estimate of a likely acceptable BA offset for use in the Emergency Supplementals, if necessary. We are also working with Ag/FNS on policy and administrative changes that might address the part of participation decline not attributable to the economy.

Youth Opportunity Grants (YOG). DOL hopes to solicit applications for the first round of YOG sites funded by the FY 1999 appropriation of \$250 million within the next month. EIML staff met with DOL to discuss two significant policy changes DOL is considering: 1) increasing the number of sites from the 15-20 assumed in the Budget to 30-35; and 2) providing a constant grant level to each site each year for 5 years, as opposed to the Budgets assumption of declining Federal funding and rising grantee matching. Both changes appear to us to dilute the potential impact of the initiative and to put pressure on the discretionary budget for the future. If DOL policy officers persist in this approach, a policy level meeting will be required.

College Completion Challenge Grants: EIML staff are nearing clearance of the Department of Educations draft legislation for College Completion Challenge Grants, and FY 2000 budget initiative. Final clearance and transmittal are expected this week. EIML staff met with staff for Senator Kennedy, Rep. Clay, and Rep. Fattah to plan strategy to garner support for the bill. The proposal is opposed by the "TRIO" program lobby, which operates somewhat

similar Federal programs, and fears diversion of funds.

DC College Access: The House Subcommittee on DC approved Representative Davis bill, including broadening it to reach all U.S. public institutions and authorizing \$3,000 scholarships to attend private institutions in DC, Virginia, and Maryland. EIML staff and ED have continued to work closely with Senator Jeffords to develop a bill that better reflects Administration priorities.

Vocational Rehabilitation: ED A/S Heumann came to my office to present the interim findings of EDs longitudinal study of the Vocational Rehabilitation program, and to begin an OMB-ED dialogue on performance and funding of Rehabilitation programs. ED believes these programs are underfunded in the context of their goals and performance, and that OMB has shown little interest in them. The study is still a year or two away from providing performance data, but the discussion was useful in opening an OMB-ED dialogue on how to think about these programs for the FY 2001 and future budgets. EIML staff and ED will continue the discussions which should, at minimum, result in a better justified FY 2001 submission from ED.

Report on effects of Social Security Reforms on Women: SSA recently completed an analysis at the request of Senator Mikulski that examines the differential impact of several reform options by gender and income level. SSA is scheduled to provide results to Mikulski Wednesday, April 21. There is interest at NEC in using the release of this report for a Presidential event with Mikulski, if the timing can be worked out. The analysis examines the effect of one revenue option, four traditional benefit cut options, and two forms of individual accounts -- flat dollar amount and percent of payroll. The analysis revealed that traditional reforms as well as individual accounts do affect women somewhat differently than men due to differences in life expectancy, labor force participation and earnings histories. However, the differential effects are mitigated to some extent by the fact that women are often part of households that include men. (That holds for individual accounts as well.) The analysis also showed that certain benefit reductions result in a greater percentage reduction in overall household income for low-income retiree households than for high-income retiree households, because Social Security generally comprises a greater share of total income for low-income households.

Welfare-to-Work Reauthorization. EIML worked with LRD, DPC, and OIRA to clear legislation that would reauthorize the Welfare-to-Work (WTW) grant program in FY 2000, as provided in the FY 2000 budget. Key provisions include simplifying the eligibility criteria, promoting services to non-custodial parents, increasing resources for Indian tribes, and streamlining the reporting requirements. DOL has provided the reauthorization language informally to Rep. Cardin, who will sponsor the bill in the House. Secretary Herman and Rep. Cardin will announce the bill's introduction on April 20th.

H-1B Visa Cap Status and Regulation. It appears that we already have reached the new 115,000 cap for FY 1999. INS has approved 96,000 petitions and has more the 19,000 on hand. INS is reviewing better ways to manage the cap. The Administration has not been contacted by industry groups on reaching the cap, although the press has been calling the WH. Senator Abraham's staff are aware of the situation but do not currently have plans to seek an additional increase.

On January 5, 1999, DOL published the proposed H-1B regulation implementing the additional worker protections enacted under the "American Competitiveness and Workforce Improvement Act of 1998." The comment period on the proposal closed February 19, 1999. DOL received

88 comments on the proposal. DOL is currently reviewing these comments and will revise the regulation as it determines in light of the various views. DOL anticipates submitting the draft final regulation to OMB for review in late April.

BUDGET ROLL-OUT AND AMPLIFICATION  
January 26-February 7, 1999  
(DRAFT--January 28, 1999 at 8:00am)

TUESDAY, JANUARY 26 (Done)

General/Print:

\*Regional Press on Women Mayors Social Security meeting

WEDNESDAY, JANUARY 27 (Done)

Leg. Affairs:

\*3:45pm--Social Security Briefing of Ways & Means Democratic staff in 1139 Longworth HOB  
[Surrogates: Mathews(c), Sperling(c), Apfel(c), Summers(c)]

\*5:00pm--Social Security Briefing of Finance Democratic staff in Dirksen 215 [Surrogates:  
Mathews(c), Sperling(c), Apfel(c), Summers(c)]

THURSDAY, JANUARY 28

Television:

\*(T) 6:00pm--Lehrer News Hour Interview [Surrogate: Sperling(T)]

Cabinet Affairs:

\*11:00am--Conference call for agency Communications Directors

[Surrogates: Lockhart(T), Palmieri(c), Ricci(c), Spector(c)]

\*1:30pm--Conference call for Regional Administrators [Surrogates: Palmieri(c), Spector(c),  
Lori McHugh(c)]

Leg. Affairs:

\*2:30pm--Social Security briefing for Blue Dogs [Surrogates: Joe Minarik(c), Goss(c)]

\*4:00pm--Social Security briefing for House and Senate Budget Democratic staff in HC-9  
[Surrogates: Mathews(c), Sperling(c), Apfel(c), Wilcox(c)]

THURSDAY, JANUARY 28 (afternoon) or FRIDAY, JANUARY 29 (morning)

Print:

\*Briefing at weekly meeting with news magazines on Social Security and budget  
[Surrogate: Lockhart(c)]

FRIDAY, JANUARY 29

General/Print:

\*10:15am--Social Security briefing at National Press Club [Surrogate: Sperling(c)]

Leg. Affairs:

\*9:15am--Social Security briefing for Senate Task Force Members in SD-562

[Surrogates: Lew(c), Sperling(c), Apfel(c), Stein(c)]

\*10:30am--Joint briefing for House and Senate Democratic Budget/Appropriations/Ways &  
Means/Finance staff in HC-9 [Surrogates: Mathews(c), DeSeve (c), Gotbaum(c),  
Joe Minarik(c), Dick Emery(c), PADS(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]

\*1:00pm--Briefing for Senate Democratic AAs, LDs and Leadership staff in S-211, Capitol  
[Surrogates: Mathews(c), DeSeve(c), Gotbaum(c), Joe Minarik(c),

Dick Emery(c), PADS(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]

\*(T) 2:00pm--Social Security briefing for Finance Committee Republican staff [Surrogates:  
Sperling(c), Apfel(c), Stein(c)]

\*3:00pm--Briefing for House Democratic AAs, LDs and Leadership staff in HC-5

[Surrogates: Mathews(c), DeSeve(c), Gotbaum(c), Joe Minarik(c), Dick Emery(c), PADs(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]

## WEEK OF JANUARY 23-29

## Television:

\*(T) Interviews for news and business shows [Surrogates: Lew(T), Mathews(T), Sperling (T), Yellen(c)]

## Radio:

\*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

## SUNDAY, JANUARY 31

## Television:

\*(T) Sunday morning shows [Surrogates: Lew(T), Mathews(T), Sperling (T)]

## MONDAY, FEBRUARY 1

\*7:00am (embargoed until 8:00am)--Wires get budget

\*7:30am--OMB Leg. Affairs distribution of FY2000 Budget

\*9:00am--Conference call with Cabinet [Surrogate: Lew(c)]

\*10:00am--BUDGET ROLL-OUT EVENT (East Room)

\*10:00am--Budget and other amplification materials will be put up on WH web site

\*11:45pm--Press Budget briefing in OEOB 450 [Surrogates: Lew(c), Mathews(c), Rubin(c), Sperling(c), Yellen(c)]

\*12:30pm--Cabinet Agencies begin briefings

\*1:00pm--Roundtable with budget reporters (OMB organizing) [Surrogate: Lew(T)]

\*1:00pm--OPL conference call for regional constituency group leaders (other offices can feed in) [Surrogate: Mathews(c)]

\*2:00pm--IGA briefing for DC representatives from 50 states , DC representatives for cities and counties, Tribal leaders and state legislators in the Truman Room of the White House Conference Center [Surrogate: Mathews(c), DeSeve(c), Yellen(T)]

\*2:00pm--Technical briefing for Budget/Appropriations [Surrogates: Chuck Kieffer(c), Dick Emery(c)]

\*3:00pm--IGA conference call with 20 key mayors [Surrogates: Gotbaum(T), Lewis(T)]

\*3:00pm--White House briefing for national constituency group leaders in OEOB 450 (OPL organizing and other offices can feed in) [Surrogates: Lew(T) or Mathews(T), Gotbaum(c), PADs(c)]

\*4:00pm--Climate Change Budget briefing in OEOB 450 [Surrogates: Stern(c), George Frampton(T), Elgie Holstein(T), Neal Lane(T)]

\*4:00pm--Joint House and Senate Bipartisan Staff Briefing [Surrogates: Mathews(c), Gotbaum(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADs (c) and WH Leg. Affairs staff(c)]

\*(T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]

\*(T) Targeted calls to editorial boards, pundits [Surrogates: Lew(T), Mathews(T), Sperling(T), WH Senior Staff]

## Television:

\*(T) Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

\*(T) Interview for Lehrer News Hour [Surrogates: Lew(T)]

\*(T) Interview on cable news [Surrogate: Echaveste(T)]

## Radio:

- \* (T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling (T)]
- \* (T) Interview with Bloomberg Business Radio [Surrogate: Lew(T)]
- \* (T) Interview with NPR Marketplace [Surrogate: Lew(T)]
- \* (T) Interviews with radio [Surrogates: WH Senior Staff]

## Specialty Media:

- \* 1:45pm--Conference call with Latino newspapers [Surrogate: Echaveste(c)]
- \* Interviews for Hispanic TV [Univision (1:00pm), Telenoticias (1:10pm), Telemundo (1:20pm)] [Surrogate: Echaveste(c)]
- \* Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]
- \* Conference call with African American newspapers [Surrogate: Ben Johnson(T)]
- \* (T) Conference call with Asian American newspapers [Surrogate: Barbara Chow(T)]

## Internet Media:

- \* Time TBD--Interview with Time Magazine.com on budget (story will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

## TUESDAY, FEBRUARY 2

## General/Print:

- \* (T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]

## Television:

- \* (T) Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T)]

## Radio:

- \* (T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T)]

## Specialty Media:

- \* Interviews for Native American media [Surrogate: Lynn Cutler(T), Mathews(T)]
- \* Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]

## Internet Media:

- \* 7:30pm(EST)--Live interview with MSNBC On-Line on budget [Surrogate: Reed(T)]
- \* Time TBD--Q&A interview with Washington Post.com on budget (answers will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

## Cabinet Affairs:

- \* 8:30am--Briefing for Cabinet Chiefs of Staff [Surrogates: DeSeve(T), Gotbaum(T), Sperling(T), Yellen(T)]

## Leg. Affairs:

- \* 9:30am or 10:00am--Senate Finance Hearing [Surrogates: Rubin(c), Mathews(T)]
- \* 10:00am--Congressional Testimony at Senate Budget Committee [Surrogates: Lew(c)]
- \* 1:00pm--Democratic Senators Weekly Lunch [Surrogates: Lew(c), Stein(c)]
- \* 4:00pm--Briefing for House Budget Committee Democrats [Surrogate: Lew(c)]

## First Ladys Office:

- \* (T) Briefing for Arts community [Surrogate: HRC]

WEDNESDAY, FEBRUARY 3

General/Print:

\*Conference calls on targeted issues [Surrogates: Cabinet Secretaries(T) or Sub-Cabinet(T)]

Leg. Affairs:

\*10:00am--House Budget Committee Hearing [Surrogate: Lew(c)]

\*10:00am--Senate Budget Committee Hearing [Surrogates: Rubin(c), Mathews(T)]

Womens Office/Leg. Affairs:

\*Time TBD--Budget briefing on Hill for Women Congressional Members [Surrogates: Mathews(T)]

THURSDAY, FEBRUARY 4

Leg. Affairs:

\*10:00am--House Ways & Means Hearing [Surrogates: Rubin(c), Mathews(T)]

FRIDAY, FEBRUARY 5

General/Print:

\*(T) Roundtable with regional outlets [Surrogates: Sperling(T), Lew(T)]

\*(T) Breakfast with pundits, columnists [Surrogates: Sperling(T), Lew(T)]

Leg. Affairs:

\*National Conference of State Legislators [Surrogates: Lew(c)]

WEEK OF FEBRUARY 1-7

General/Print:

\*Regional editorial board mailings with State-by-States

\*Roundtables with regional outlets (when State-by-States are releasable)  
[Surrogates: Lew(T), Sperling(T)]

Specialty Media:

\*Specialty press conference calls [Surrogates: TBD]

\*Specialty press mailings to Native American, Health, Seniors, Disability, African American and Hispanic media

SUNDAY, FEBRUARY 7-TUESDAY, FEBRUARY 9

\*House Democrats Retreat (POTUS and VP attending)

SURROGATES

Gene Sperling

Jack Lew

Sylvia Mathews

Janet Yellen

Bruce Reed

Elena Kagan

Josh Gotbaum

Maria Echaveste

Sally Katzen

Larry Summers

Larry Stein

Ed DeSeve

Sec. Rubin (?)

OMB Program Area Directors (PADS)--Michael Deich, Barbara Chow, Elgie Holstein,  
Dan Mendelson and Bob Kyle

PAPER NEEDED FOR BUDGET ROLL-OUT

(Communications will serve as clearinghouse for distribution of paper to WH Offices)

Overview Talking Points (NEC) (Friday at Noon)

Economic and Fiscal Record (NEC) (Monday)

Issues Paper (OMB)--(Monday)

Education and Training

Health

Research and Technology

Environment

Community Empowerment

Legal Immigrants

Crime

Working Families and Child Care

Defense

Tobacco

Race

Accomplishments (Done)

Sample Op-eds and Letters to the Editor (Communications)

1

July 21, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: July 22, 1998  
TIME: 12:00pm-12:45pm  
LOCATION: Cabinet Room  
FROM: Gene Sperling

I. PURPOSE

Erskine Bolwes requested that you meet with your economic advisors again, as you did last month, to update you on key economic, financial, and budgetary issues. We will discuss (1) possible strategies to buffer our "Save Social Security First" position against Republican tax cut proposals; (2) the state of the economy with respect to second quarter GDP growth; and (3) the current financial situation in Asia and Russia and its effect on the global economy.

II. BACKGROUND

**Tax Cuts/Surplus.** It appears that the Republicans will try to tap the surplus to pay for their tax cuts. We will discuss with you ways to strengthen the resolve of Democrats to Save Social Security First and our efforts to work with them to fashion an alternative tax cut that advances your priorities. The IRS bill signing event (immediately following this meeting) provides an opportunity to build on the strong message you delivered last Friday on the surplus.

**State of the Economy.** We will review the latest economic indicators and forecasts for GDP growth in the second quarter and the rest of the year. In light of recently released data on trade flows and inventories, most forecasters have revised downward significantly their estimates of second quarter GDP growth. Many analysts now expect the advance estimate of second quarter GDP, to be released on July 31, to show near-zero and conceivably negative growth. We will highlight three factors responsible for the changed assessment: the GM strike, the impact of Asian financial crisis on U. S. trade, and the significant decline in inventory investment from its record level in the first quarter. We also want to discuss with you the prospects for growth in the second half of 1998 and the year as a whole and analyze some key risks to the forecast.

**Global Economy.** Secretary Rubin and Erskine remain concerned about the economic situation in four countries: Russia, Ukraine, Japan, and Pakistan. In particular, we will discuss the nature of the IMF program and challenges ahead for Russia; the current financial situation in Ukraine; the impact of sanctions on Pakistan's financial situation; and the continued lack of direction in Japan's banking and fiscal priorities.

III. PARTICIPANTS

The President

The Vice President  
Erskine Bowles  
Sylvia Mathews  
Maria Echaveste  
John Podesta  
Gene Sperling  
Jack Lew  
Janet Yellen  
Ron Klain  
Larry Stein  
Secretary Rubin  
Larry Summers  
Rahm Emanuel  
Paul Begala  
Bruce Reed  
Elena Kagan  
Lael Brainard  
Tim Geithner  
Sandy Berger  
Jim Steinberg  
Jill Blickstein  
Leon Fuerth

IV. SEQUENCE OF EVENTS

You will meet with your advisors in the Cabinet Room.

V. PRESS COVERAGE

NONE

VI. REMARKS

NONE

VII. ATTACHMENTS

- a. Options for Surplus/Tax Cut Strategy
- b. CEA Review -- The Current Economic Status
- c. Treasury

\*

\*Figure 1

November 9, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Jacob J. Lew  
Gene B. Sperling

SUBJECT: Fiscal Year 2000 Budget Overview

On Tuesday, you are scheduled to drop by the cabinet meeting where we will be discussing the fiscal year (FY) 2000 budget. As we discussed last week, there is a broad sense among members of the cabinet that resources are abundant this year. It would be very helpful for you to send a clear signal at this meeting that the budget will be constrained by our commitment to save the surplus until we fix social security. This memorandum provides an overview of the fiscal year 2000 budget outlook and describes the tension inherent in this years budget decisions. Attached are talking points for you to use at the cabinet meeting.

The framework and early signals you send are very important. Your FY 2000 budget must both set forward your domestic, international and defense priorities and preserve your commitment to save the surplus until we fix Social Security. While we need to save the surplus to take our best shot at Social Security reform, we must also set forth your priorities to position us to engage in spring/summer budget negotiations regardless of the disposition of Social Security. We will work with the policy councils to make room, within these constraints, for initiatives. The policy councils understand that the level of funding for new initiatives for the State of the union will need to be balanced against our need to protect the surplus.

Discretionary resources remain very tight in FY 2000. The FY 2000 discretionary spending caps represent a virtual freeze of discretionary spending. Moreover, not all of the offsets that we used last year to offset spending above the caps are available for this years budget. For example, your FY 99 budget used tobacco revenue and mandatory savings from the repeal of the VA/tobacco benefit. This means that before we commit resources to new initiatives, we must find substantial new offsets simply to keep \$9.3 billion in commitments above the caps from last years budget.

Although tobacco legislation never passed, and VA/tobacco savings were used to finance the

highway bill, we nonetheless did very well in 1999 by finding alternative means of financing many of our increases. In addition to the emergency spending of \$20.8 billion, the final omnibus contained roughly \$3 billion in spending that was offset from one-time mandatory savings and an additional \$4.3 billion funded through a budgetary device called advanced appropriations -- which shifted certain late spending funding to October 1, 1999 and therefore into the next fiscal year. This \$7.3 billion financed many of the initiatives in your budget.

In addition to the discretionary commitments enacted last year, your budget also proposed multi-year programs such as class size and child care, which also require offsets. Because these were funded out of the tobacco revenue, either we will need to once again use tobacco for this purpose or we will need to find other offsets. We have been working with Bruce Reed and Elena Kagan to develop a tobacco spending program that might do more to enhance chances for passage of tobacco legislation. However, unless tobacco revenue is used to finance old commitments, we will find ourselves short of the offsets needed to avoid spending the surplus. This means we cannot assume that tobacco revenue is available to fund new programs.

In total we need \$20 billion in offsets just to stay even with the spending side commitments made in last years budget. We are developing options to meet this target, but they will require many difficult decisions. There will be substantial tension between agency demands for core government funding -- in particular to fund the pay raise -- and funding for new initiatives. Any commitments to new initiatives will need to be financed by either reducing spending elsewhere or by increasing the amount of offsets that will be required. Additional offsets will not be easy to find and will be increasingly controversial.

Beyond the funding gap that must be closed simply to continue last years policies, agency requests add up to impossible demands for new spending. DOD has requested \$20 billion over their guidance level and the other agencies have requested a total of \$40 billion over their aggregate guidance levels. Any spending over the guidance level will add to the \$20 billion financing problem.

As we work through the details of the FY 2000 budget and you make decisions on policies such as tobacco legislation, we will begin to know more accurately how tight the funding really is. In addition, there are new issues we need to work through in FY 2000. For example, the "firewall" between defense and discretionary spending no longer exists and any defense increases will appear to be funded at the expense of domestic programs, and vice-versa.

Living within the caps and finding resources for State of the Union initiatives will require very difficult choices in virtually every department. We will be able to include initiatives in the State of the Union, but we will also need to make tough decisions on the trade-offs. This means that while we are encouraging agencies to think creatively about initiatives, we also need to push hard on agencies to live within guidance. We, along with John Podesta, recently met with the Department of Defense to underscore the need to fund readiness needs within agency totals to the maximum extent possible. We are planning a similar meeting with the State Department and we are having separate conversations with many agency heads. It would be very helpful if you send the same message at the cabinet meeting on Tuesday.

ATTACHMENT

**FF**TALKING POINTS FOR THE NOVEMBER 10  
CABINET MEETING DROP BY

\*I would like to take just a few minutes to talk about the 2000 budget process. I know that each of you has worked hard to present me with budget alternatives that will help continue the strong agenda I have pursued. It is important that we continue to think creatively about new policies. However, it is also important that we match this enthusiasm with our commitment to saving the surplus until we have fixed Social Security.

\*As I have said time and again, I am committed to saving the surplus until we have fixed Social Security for future generations. This is our best shot at Social Security reform and my 2000 budget decisions will need to be considered within this constraint.

\*John Podesta, Jack Lew and the rest of the budget team are working hard to come up with ways to finance my priorities, but resources will be tight in 2000.

\*Maintaining the fiscal discipline that we have fought so hard to achieve will require very difficult choices in every department. We will have to make some very tough decisions about which initiatives we can afford, while continuing to protect the surplus.

\*I appreciate your continued dedication to moving forward with both the mission of your individual agencies and with the broad economic policy that has done so much to promote a thriving economy.

0.a..(0)(a)( )0)a)\*

November 9, 1998

MEETING WITH BUDGET TEAM  
ON 2000 BUDGET

DATE:November 10, 1998  
LOCATION:Oval Office  
TIME:6:00-7:00pm  
FROM:Jack Lew  
Gene Sperling

I. PURPOSE

To discuss the current economic and budget situation, and highlight major decisions, including how to deal with budgetary pressures while saving the surplus until Social Security is fixed. Your guidance will inform OMBs reviews of the Departments submissions and the passbacks to the Departments before Thanksgiving.

II. BACKGROUND

See attached memorandum.

III. PARTICIPANTS

Meeting  
The President  
The Vice President  
John Podesta  
Maria Echaveste  
Secretary Rubin  
Larry Summers  
Gene Sperling  
Jack Lew  
Sandy Berger  
Janet Yellen  
Larry Stein  
Ron Klain  
Bruce Reed  
Doug Sosnik  
Paul Begala  
Sylvia Mathews

Sally Katzen  
Elena Kagan

IV. PRESS PLAN

Closed press.

V. SEQUENCE OF EVENTS

6:00-7:00pm Briefing and discussion with your advisors

VI. REMARKS

No remarks.

VII. ATTACHMENTS

Memorandum  
Talking Points

A. I. A.

1. 1. a. (1) (a) i) a)

I. (1) (a)

A.

1. a.

I. i) a)

December 18, 1997

#### MANDATORY AND TAX OPTIONS IN THE FY 1999 BUDGET

DATE:December 19, 1997

TIME:9:00a.m.-10:00a.m.

LOCATION:Cabinet Room

FROM:Gene Sperling

Frank Raines

#### I. PURPOSE:

To finish reviewing both alternative mandatory spending options and tax side options for the FY 1999 budget.

#### II. BACKGROUND:

We will finish up our discussion of key mandatory issues, including child care, higher education, food stamps, school construction and TAA and options for financing new mandatory initiatives such as revenue from the tobacco tax. We will then move on to a discussion on options on the tax side, including both uses and sources of revenue. The sources, generally, are revenue raisers we have proposed in the past. The uses include initiatives such as child care, climate change and pensions.

#### III. PARTICIPANTS:

The Vice President

Erskine Bowles

Frank Raines

Gene Sperling

Secretary Rubin

Jack Lew

Josh Gotbaum

Larry Summers

Janet Yellen

Ron Klain

Rahm Emanuel  
Bruce Reed  
Elena Kagan  
John Hilley  
Sylvia Mathews  
John Podesta  
Paul Begala

As Appropriate, OMB and Treasury Specialists Will Attend IV. SEQUENCE OF EVENTS:

-- Frank Raines, Gene Sperling, and Jack Lew will review a set of alternative options on both the mandatory and tax sides.

V. PRESS COVERAGE:

None

VI. REMARKS:

None

A. I. A.  
1. 1. a. (1) (a) i) a)  
  
I. (1) (a)  
A.  
1. a.  
I. i) a)

December 6, 1997

SOURCES OF NEW SPENDING IN THE FY 1999 BUDGET

DATE:December 9, 1997  
TIME:5:00 - 6:00 p.m.  
LOCATION:Cabinet Room  
FROM:Frank Raines  
Gene Sperling

I. PURPOSE:

To review potential sources of additional funds for new initiatives in the FY 1999 budget.

II. BACKGROUND:

Similar to last year, OMB and the NEC have scheduled a series of meetings with you to provide you with choices and solicit your decisions on funding priorities in the FY 1999 budget. At this meeting, Frank Raines, Gene Sperling, and Jack Lew will review potential discretionary and mandatory savings and additional revenues that will provide room for new initiatives.

III. PARTICIPANTS:

The Vice President  
Erskine Bowles  
Frank Raines  
Gene Sperling  
Secretary Rubin  
Jack Lew  
Josh Gotbaum  
Joe Minarik  
Barry Anderson  
Larry Summers  
Janet Yellen  
Ron Klain  
Rahm Emanuel  
Bruce Reed  
John Hilley

Sylvia Mathews

John Podesta

Paul Begala

Elena Kagan

Chuck MarrIV.SEQUENCE OF EVENTS:

-- Frank Raines and Gene Sperling will open the discussion with a series of savings/revenues options.

V.PRESS COVERAGE:

None

VI.REMARKS:

None

VII.ATTACHMENTS

None

July 4, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN

SUBJECT: Crack/powder cocaine sentencing recommendations

The attached Bruce Reed/Elena Kagan memo recommends that you accept a recommendation from the Attorney General and Director McCaffery and authorize them to work with Congress on legislation to change the threshold for a 5-year mandatory sentence for crack cocaine from 5 grams to 25 grams and from 500 grams to 250 grams for powder cocaine -- a ratio of 10:1 rather than the current 100:1. You should act upon this before your trip if possible.

Background. In May 1995, the U.S. Sentencing Commission voted to make the ratio 1:1 at 500 grams for both substances. The Administration opposed these changes and, in October 1995, you signed legislation rejecting them and directing the Sentencing Commission to submit new recommendations to Congress. On April 29, the Commission submitted the new report that suggested a range of 25-75 grams for crack and 125-375 grams for powder. You asked the AG and McCaffery to review the recommendations.

Recommendations. The AGs and McCafferys recommendations stand upon a three-pronged rationale. First, the revised sentencing structure would help federal prosecutors and law enforcement officials better allocate resources by enabling them to focus on mid- to high-level dealers and permitting state and local prosecutors to focus on lower level dealers. Second, the current 100:1 ratio is outdated because the rates and danger of crack and powder use have narrowed over the years. Third, the current ratio is a symbol of racial bias and that our proposal would reduce the perception of injustice and inconsistency.

Congress. Next week, Senators Hatch and Abraham may offer an amendment to the juvenile justice bill lowering the minimum for powder to 100 grams while leaving crack at 5 grams -- a 20:1 ratio. Other Members have proposed lowering powder to as low as 5 grams for a 1:1 ratio. Bruce/Elena note that addressing the disparity in this manner will increase the federal governments role in low-level drug cases, overwhelm the courts and add billions to the federal prison budget.

Views. Bruce/Elena believe that the recommended changes represent the middle ground and the best hope of achieving progress on the issue. They advocate getting into the debate now and pushing for sensible legislation, but note that the Congressional Black Caucus will criticize 10:1 and advocate for further reducing the ratio. Ben Johnson notes that 10:1 will not sit well with the African-American and Hispanic communities, but that agrees that we need to enter the debate so as to push for sensible legislation. Rahm notes that our communications strategy will need refining from the current Reno/McCaffery approach, but agrees with the underlying decision to accept 10:1 and move ahead. Ann Lewis concurs. John Podesta would like to get a sense of where you stand on the issue before you depart, and then meet about the communications strategy on Monday before making any further moves

as several relevant senior staffers are out of town for the holiday. Once our strategy is set, he would like to confirm with you on the road.

Recommendation. Enter the debate based on the Reno/McCaffery recommendation, but move forward only after a communications strategy is set:

\_\_\_\_\_ Agree

\_\_\_\_\_ Disagree

\_\_\_\_\_ Discuss

September 14, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Jack Lew

FROM: Donald R. Arbuckle

SUBJECT: DOT Rule on Intercity Buses

We have nearly completed our review of a final Department of Transportation (DOT) rule that will provide improved access for wheelchair-bound passengers to intercity buses. The rule will require intercity fixed-route bus companies (i.e., Greyhound, Peter Pan) to provide wheelchair lifts on their buses. At least one-half of each company's buses must be made wheelchair accessible within 6 years, with the remainder accessible within 12 years. Small companies are subject to much less stringent requirements. The costs of the rule have been reduced substantially from the proposal -- about \$25 million in annual costs as compared to \$50 million at the proposed stage. Most of this reduction is in relief to smaller carriers and charters.

I have talked with representatives of both the disabled community and the industry. The disability community strongly supports the rule and has been fighting ardently for the wheelchair lift requirement for years. Smaller companies and charter operators (about 3500 companies) will also be reasonably satisfied. However, the largest companies, such as Greyhound, who have argued most strongly against the rule, will not be happy. Greyhound has been advocating a much less costly plan that would provide reasonable accommodation to the disabled on 48 hours notice. Disability groups regard this as "discriminatory", since non-handicapped passengers can purchase tickets without a 48-hour notice. In addition, these groups do not believe Greyhound's plan will work. DOT agrees.

The final rule is under a September 15 court ordered deadline and we are working with DOT to complete our review asap.

PP

cc: Maria Echaveste  
Rahm Emanuel  
Larry Stein  
Ron Klain  
Thurgood Marshall, Jr.  
Ann Lewis  
Sally Katzen  
Minyon Moore  
John Podesta

Bruce Reed  
Gene Sperling  
Elena Kagan  
Barry Toiv  
Michael Waldman  
Janet Yellen  
Mickey Ibarra  
Michael Deich

## M E M O R A N D U M

June 25, 1998

TO:Rahm Emanuel

FR:Chris Jennings

RE:Patient's Bill of Rights Status

cc:Sylvia Matthews, Bruce Reed, Larry Stein, Gene Sperling, Ron Klain, Elena Kagan, Janet Murguia, Chuck Brain, Sally Katzen

This memo responds to your request for an up-to-the-moment status report on the Republican Leadership's Patients' Bill of Rights. It also outlines positioning options for the President's and your consideration vis a vis the bill in general and the enforcement provisions more specifically.

House Republican Patients Bill of Rights. The reaction to the House Leadership's announcement of their intention (they have provided no details) to introduce a Patients' Bill of Rights has been almost universally negative. The base Democrats, the consumer advocates, and the providers have labeled it a "sham;" the insurers and big business community are criticizing it as overly regulatory. Notwithstanding the positioning nature of these reactions, it is remarkable how far the Republicans apparently have moved toward the President's position.

Status of Policy. With the exception of the access to specialist/out-of-network referral, continuity of care, and requirement for financial disclosure provisions, the House Republicans appear to have included virtually every one of the consumer protections recommended by the President's Quality Commission. They have even (reportedly) included a Federal Court-enforced remedies provision that reportedly has a damages cap of between \$100,000 and \$250,000. Less than two months ago, many conservative Democrats and most Republicans would have labeled the current Republican plan as something between excessively regulatory and a Government takeover of the health care system. In fact, just 4 months ago, the Presidents Quality Commission would not even touch the issue of enforcement. The political ground has obviously shifted dramatically.

**Administration Reaction of Republican Proposal.** We have taken the position that the Republican proposal both affirms the President's longstanding position that strong, Federal, and enforceable legislation is needed and confirms (through their bill's provisions or lack thereof) that the Republican Leadership is not serious. In short, we say that any bill without all of the Quality Commission's protections and a strong enforcement provision is nothing more than a "bill of goods." We also charge that any bill that piles on "poison pill" provisions (like MEWAs, arbitrary caps for medical malpractice,

and MSAs) is designed to kill, rather than enhance, the chances of an acceptable bill emerging. We will find out how or if the Republicans respond to our criticism when they introduce a bill -- which will not happen before until after the July 4th recess.

The Dingell/Ganske/Kennedy Bill and Democratic Positioning. The Democratic Leadership and base Members have been even more critical of the Republican plan than us. Their bill starts with more provisions than were recommended by the Quality Commission and, particularly in the absence of CBO cost estimates for their bill, they are extremely comfortable criticizing the much less comprehensive Republican plan.

The Democratic plan builds on the Quality Commission's recommendations by adding, among other provisions, requirements for ERISA remedies, a medical necessity provision (that prohibits any insurer from denying coverage for any service that a physician deems is medically necessary), mandatory clinical trial coverage, mandatory 48-hour hospital coverage following a mastectomy, mandatory coverage for breast reconstruction following a mastectomy, required access to prescription drugs that are not on a plan's formulary if a doctor deems necessary, and a "whistleblower" provision, which protects health professionals against retribution if they report and document quality problems. Although most of these provisions are generally defensible policy and certainly politically attractive, they do add costs (at least 2 percent higher premiums than the Quality Commission's recommendations.)

Congressional Budget Office (CBO) Estimate. The next big hurdle for the Democrats will be next Wednesday's or Thursday's expected release of the CBO premium estimates of the Dingell/Ganske bill. We anticipate that the premium will be projected to increase by about 4 percent for the average employee, which amounts to about \$6 a month. We are working on a positive roll-out strategy for this estimate, using it to buttress our claim that the benefits of any such legislation are more than worth the modest cost. If all agree in the White House and he is available, we might want to have the Vice President announce the generally good-news estimate during this Congressional recess period.

Likely Republican Response to CBOs Scoring of Dingell/Ganske Bill. The Republican (and the insurer and big business) response to the CBO estimate will be swift and critical. They will cite overall health care expenditure increases (that will amount to billions of dollars, although a small fraction of the nations trillion dollar health expenditures base) and flawed coverage loss projections (probably in the neighborhood of 200,000 to 2 million Americans.) It is important to point out that the likely CBO cost estimate for the Republican bill will be much lower than the Dingell bill -- about one fourth of it (1 percent). If the opponents cost and coverage argument takes hold, it could seriously impede the momentum that the Patient Bill of Rights now enjoys. We are currently in the process of working on a strong, message document, as well as some Qs & As, to prepare for the release of the CBO document.

**FF** "Blue Dog" Democrats Could Create Difficulty. Finally, it is important to note that some "blue-dog" House Democrats may seriously consider joining up with the Republicans when and if their bill goes to the floor. They are generally most influenced by the small business lobby and the Republican bill has received its only real support from the NFIB. Similarly, the Senate is populated by numerous Democrats who are and always will be uncomfortable with standing by Senator Kennedy. As a consequence, if the Senate Republicans feel pressured to develop their own Patients Bill of Rights (and Chafee is now drafting a bill), there may be a number of Democrats who could sign on, particularly if the "poison pill" provisions are

dropped and a few more patients' protections are added on.

Enforcement/Liability/Remedies Provision.

Clearly, because of the popularity of HMO regulation, it is probable that a consensus can be achieved on most if not all of the traditionally-desired patient protections. Decisions on what protections make it in will be linked to two variables: CBO cost estimates and perceived political pain associated with opposition to popular provisions. With the possible exception of some of the unrelated "poison pill" provisions mentioned earlier, the only seemingly apparent "line-in-the-sand" issue that could define the difference between Republicans and Democrats might be the issue of need for strong remedies for those aggrieved parties that have suffered serious health consequences or death because a health plan wrongly denied care.

To date, the Administration has consistently stated that this legislation must include a strong enforcement provision -- that a "right without a remedy is no right." To provide us with some flexibility and consistent with our directions from senior staff, we have never locked ourselves into a particular approach.

Both the Dingell-Ganske and the Norwood bills include state-court enforced liability provisions. Simply stated, the bills explicitly clarify that the Employee Retirement Income Security Act (ERISA) would no longer pre-empt or supersede state laws that provide for a right of action against a health plan that has denied care to a patient. Without this provision, the only current remedy a patient can obtain through ERISA law is payment for the cost of the benefit he or she should have had. In other words, for the 122 million Americans in ERISA covered plans, patients cannot get any compensation for treatment costs, pain and suffering, or lost wages.

Current Law Example: A doctor orders a cancer screening test for a patient he thinks might have breast cancer, but the plan denies coverage. The patient, as a consequence, does not take the test, but 6 months later comes back with a more noticeable lump. The doctor orders the test and, this time, the HMO pays for it. He finds the patient has a cancer that has spread throughout her body and that it is now untreatable. He and his patient are devastated because they know that, had they had the test results 6 months earlier, they could have successfully treated the cancer. Now the patient must undergo a radical mastectomy and, even with that, her survival odds are very low. She is furious and asks her lawyer to sue the HMO. Her lawyer tells her she can, but it really isn't worth the trouble since the only thing she can get compensated for under the law is the cost of the original cancer screening test. She can collect no damages to pay for the mastectomy, the chemotherapy and any other treatment her doctor may order to save her life. She gets no compensation for the lost wages from the job she must leave and she gets no enumeration for all the pain and suffering she is going through as a consequence of her HMO denying her treatment.

Fears of Business and Labor (Taft-Hartley) Community. The prospect of opening up health plans to law suits at the state level petrifies both the business and the Taft-Hartley plans. (Labor has been quiet to date because it is poor P.R., and would hurt our chances of passing a good bill.) They fear that the trial lawyers will ride herd over their plans and that costs will balloon (in terms of lawsuit settlements and/or because their health plans will be so nervous that they will stop making even appropriate denials).

Business-underwritten analyses are projecting an unbelievably high 10-30 percent premium

increase. For the last two months, this community has used highly dubious rhetoric that state-based enforcement would leave many businesses no choice other than to drop their health benefits. But the real underlying fear is modifying, in any way, the protections ERISA affords against suits from the states and from aggrieved employees on any benefit an employer provides (health, pensions, leave, etc.).

CBO Projections Do NOT Confirm Concerns of Business Community. Notwithstanding the fears of the liability provisions of the House bills and unprecedented lobbying by the business, insurer and Republican Leadership, however, the preliminary (not for attribution or dissemination) projections from CBO seem to assume that the existence of a state-based right of action would increase premiums by only about 1 percent, about one-fourth the total premium hike projected for the Dingell-Ganske bill. (This figure will not be released by CBO until after it reports on the Dingell bill, which will take place sometime in the next week.) CBO believes that most of the suits are now being directed at doctors and that any new suits against managed care plans would generally substitute for -- not add onto -- what is already out there.

Regardless of the true number, the opponents will pull out all of the guns to stop any state-based liability provision from becoming law. They will use inflated cost projections and attempt to terrify the public into believing that the result of any Patients Bill of Rights legislation will be more regulation, more costs, and a lot more uninsured -- as people will no longer be able to afford needed health insurance.

#### Enforcement Options.

Internal and external appeals.

Under ERISA you can now go to court to get benefits. You can also go to Labor, HHS or the state insurance commissioner (yapping) who can bring civil and monetary penalties as a look behind? If you are hurt in an ERISA plan, you can only get benefits. If you are not in an ERISA plan (like in an individual market or church plan), you can sue for violation of contract, and can recover damages as permitted by law.

A civil, monetary penalty. Go to court and have individual award. Genetic screening example. Most Federal actions can be brought in state court. Once genetic info goes out in public domain, the problem cant be addressed except through a money award. Defendent pays directly to the plaintiff. Like a Qui Tam suit. Not a trial for damages; it must be in front a jury.

Republicans: A thousand dollars up to a cap. Addresses on ongoing plan problem; not a damages problem.

Federal courts could run a trial with a jury. A new Federal cause of action with new Federal rules.

Alternatives:

6th Amendment problem. Trial for damages needs a jury. End up in state or Federal court with a damage.

Liquidated/schedule damages. Schedule of benefits/damages. You die, you get X much.

Federal cause of action. If you do this, you might have to specifically address the issue of punitive damages, pain and suffering, loss wages,

Beefed up Agency enforcement. Higher civil and monetary penalties. Right to requires info on compliance form insurers. Do market conduct investigations (the right to do this. Same as what state commissioners have. And money for enforcement

Do an Administrative Law Judge process rather than going to Federal court. Maybe faster and certainly and does not necessarily require a lawyer. Penalties but not damages. Modification of Republican proposal

**FP**

The business community's opposition to the state-based liability provision has already had a major affect on the debate on the Hill. Despite unwavering support by their traditionally close health care ally (the AMA) for this provision, the Republicans first indicated there would be no enforcement provision. In response to our consistent position that there must be an enforcement provision, the Republicans have now substituted a new provision that allow workers to sue their health plan..

Options include

pros and cons

Conservative Dems may bolt

Labor problem

Now they are saying that their new proposal provides for some level of are not only impacting on the actually quite right will become so prohibitive that some companies are starting state court the test 6 months earlier id not take the test. on the issue of health bene. . remedy s The only truly apparen the only certain way to not reach consensus with the Republicans is to insist that there be an extremely strong enforcement provision, such as the Dingell/Norwood provision that allows for state court liability suits and remedies. enforcement bethe line in the sand issue will almost invariably come down to the enforcement question. This is the one issue that makes the Republicans the most nervous and draws the most opposition within the caucus. (By the way, this is the case with the conservative Democrats as well -- Senator Breaux, Senator Lieberman, etc.)it may well be the case that this is the case with the conserwill be most nervous about and opposed to. What is a sufficient mechanism and are we willing to say no to an otherwise strong bill if it doesn't go as far as we might like

Clearly, the Notwithstanding all of the other provisions now in the Dingell-Kennedy bill that are not in the Republican bill, it appears that the Republicans want to get a bill signed.

possible that this is onte of the issues that , the Republicans are coming so far to us at

this point  
Administration Positioning.

affirm that we were right all along

President the the premium projections.

generally

w medical necessity provision they want to make sure that we, nor anyone els

and illustrates that they are not serious in  
The key to constructing a viable, yet strong (if not impossible to meet) position is to do  
so in a way that is consistent with our past position and rests on an issue or issues that  
the public (and perhaps the elite media) will validate as worth drawing the line for which  
the Republicans must cross.

We now are faced with a situation that, with the exception of the remedies, the poison pill  
Republican add-ons (MEWAs, medical malpractice, and MSAs), and perhaps a few of the  
additional provisions in the Dingell-Kennedy bill, it is difficult to imagine not being  
able to extract all of the additional patient protections.

, would have enforcement provision They

appear to have included reportedly have included most of the major protections you have  
called for and have actually acknowledged the need for some

## M E M O R A N D U M

June 25, 1998

TO:Rahm Emanuel

FR:Chris Jennings

RE:Patient's Bill of Rights Status

cc:Sylvia Matthews, Bruce Reed, Larry Stein, Gene Sperling, Ron Klain, Elena Kagan, Janet Murguia, Chuck Brain, Sally Katzen

This memo responds to your request for an up-to-the-moment status report on the Republican Leadership's Patients' Bill of Rights. It also outlines positioning options for the President's and your consideration vis a vis the bill in general and the enforcement provisions more specifically.

House Republican Bill of Rights and Our Response To It. The reaction to the Republican House Leadership's announcement of their intention (they have provided no details) to introduce a Patients' Bill of Rights has been almost universally negative. The base Democrats, the consumer advocates, and the providers have labeled it a "sham;" the insurers and big business community are criticizing it as overly regulatory. Notwithstanding the positioning nature of these reactions, it is remarkable how far the Republicans apparently have moved toward the President's position.

With the exception of the access to specialist/out-of-network referral, continuity of care, and requirement for financial disclosure provisions, the House Republicans appear to have included virtually every one of the consumer protections recommended by the President's Quality Commission. They have even (reportedly) included a Federal Court-enforced remedies provision that reportedly has a damages cap of between \$100,000 and \$250,000. Less than two months ago, many conservative Democrats and most Republicans would have labeled the current Republican plan as something between excessively regulatory and a Government takeover of the health care system. In fact, just 4 months ago, the Presidents Quality Commission would not even touch the issue of enforcement. The political ground has obviously shifted dramatically.

**REA**Administration Reaction of Republican Proposal. We have taken the position that the Republican proposal both affirms the President's longstanding position that strong, Federal, and enforceable legislation is needed and confirms (through their bill's provisions or lack thereof) that the Republican Leadership is not serious. In short, we say that any bill without all of the Quality Commission's protections and a strong enforcement provision is nothing more than a "bill of goods." We also charge that any bill that piles on "poison pill" provisions (like MEWAs, arbitrary caps for medical malpractice,

and MSAs) is designed to kill, rather than enhance, the chances of an acceptable bill emerging. We will find out how or if the Republicans respond to our criticism when they introduce a bill -- which will not happen before until after the July 4th recess.

The Dingell/Ganske/Kennedy Bill and Democratic Positioning. The Democratic Leadership and base Members have been even more critical of the Republican plan than us. Their bill starts with more provisions than were recommended by the Quality Commission and, particularly in the absence of CBO cost estimates for their bill, they are extremely comfortable criticizing the much less comprehensive Republican plan.

The Democratic plan builds on the Quality Commission's recommendations by adding, among other provisions, requirements for ERISA remedies, a medical necessity provision (that prohibits any insurer from denying coverage for any service that a physician deems is medically necessary), mandatory clinical trial coverage, mandatory 48-hour hospital coverage following a mastectomy, mandatory coverage for breast reconstruction following a mastectomy, required access to prescription drugs that are not on a plan's formulary if a doctor deems necessary, and a "whistleblower" provision, which protects health professionals against retribution if they report and document quality problems. Although most of these provisions are generally defensible policy and certainly politically attractive, they do add costs (at least 2 percent higher premiums than the Quality Commission's recommendations.)

Congressional Budget Office (CBO) Estimate. The next big hurdle for the Democrats will be next Wednesday's or Thursday's expected release of the CBO premium estimates of the Dingell/Ganske bill. We anticipate that the premium will be projected to increase by about 4 percent for the average employee, which amounts to about \$6 a month. We are working on a positive roll-out strategy for this estimate, using it to buttress our claim that the benefits of any such legislation are more than worth the modest cost. If all agree in the White House and he is available, we might want to have the Vice President announce the generally good-news estimate during this Congressional recess period.

The Republican (and the insurer and big business) response to the CBO estimate will be swift and critical. They will cite overall health care expenditure increases (that will amount to billions of dollars, although a small fraction of the nations trillion dollar health expenditures base) and flawed coverage loss projections (probably in the neighborhood of 200,000 to 2 million Americans.) It is important to point out that the likely CBO cost estimate for the Republican bill will be much lower than the Dingell bill -- about one fourth of it (1 percent). If the opponents cost and coverage argument takes hold, it could seriously impede the momentum that the Patient Bill of Rights now enjoys. We are currently in the process of working on a strong, message document, as well as some Qs & As, to prepare for the release of the CBO document.

☞ "Blue Dog" Democrats Could Create Difficulty. Finally, it is important to note that some "blue-dog" House Democrats may seriously consider joining up with the Republicans when and if their bill goes to the floor. They are generally most influenced by the small business lobby and the Republican bill has received its only real support from the NFIB. Similarly, the Senate is populated by numerous Democrats who are and always will be uncomfortable with standing by Senator Kennedy. As a consequence, if the Senate Republicans feel pressured to develop their own Patients Bill of Rights (and Chafee is now drafting a bill), there may be a number of Democrats who could sign on, particularly if the "poison pill" provisions are

dropped and a few more patients' protections are added on.

Enforcement/Liability/Remedies Provision.

Clearly, because of the popularity of HMO regulation, it is probable that a consensus can be achieved on most if not all of the traditionally-desired patient protections. Decisions on what protections make it in will be linked to two variables: CBO cost estimates and perceived political pain associated with opposition to popular provisions. With the possible exception of some of the "poison pill" provisions mentioned earlier, the only seemingly apparent "line-in-the-sand" issue that could define the difference between Republicans and Democrats might be the issue of need for strong remedies for those aggrieved parties that have suffered serious health consequences or death because a health plan wrongly denied care.

To date, the Administration has consistently stated that this legislation must include a strong enforcement provision -- that a "right without a remedy is no right." To provide us with some flexibility and consistent with our directions from senior staff, we have never locked ourselves into a particular approach.

Both the Dingell-Ganske and the Norwood bills include state-court enforced liability provisions. Simply stated, the bills explicitly clarify that the Employee Retirement Income Security Act (ERISA) would no longer pre-empt or supersede state laws that provide for a right of action against a health plan that has denied care to a patient. Without this provision, the only current remedy a patient can obtain through ERISA law is payment for the cost of the benefit he or she should have had. In other words, for the 122 million Americans in ERISA covered plans, patients cannot get any compensation for treatment costs, pain and suffering, or lost wages.

Current Law Example: A doctor orders a cancer screening test for a patient he thinks might have breast cancer, but the plan denies coverage. The patient, as a consequence, does not take the test, but 6 months later comes back with a more noticeable lump. The doctor orders the test and, this time, the HMO pays for it. He finds the patient has a cancer that has spread throughout her body and that it is now untreatable. He and his patient are devastated because they know that, had they had the test results 6 months earlier, they could have successfully treated the cancer. Now the patient must undergo a radical mastectomy and, even with that, her survival odds are very low. She is furious and asks her lawyer to sue the HMO. Her lawyer tells her she can, but it really isn't worth the trouble since the only thing she can get compensated for under the law is the cost of the original cancer screening test. She can collect no damages to pay for the mastectomy, the chemotherapy and any other treatment her doctor may order to save her life. She gets no compensation for the lost wages from the job she must leave and she gets no enumeration for all the pain and suffering she is going through as a consequence of her HMO denying her treatment.

Fears of Business and Labor (Taft-Hartley) Community. The prospect of opening up health plans to law suits at the state level petrifies both the business and the Taft-Hartley plans. (Labor has been quiet to date because it is poor P.R., and would hurt our chances of passing a good bill.) They fear that the trial lawyers will ride jump herd over their plans and that costs will balloon (in terms of lawsuit settlements and/or because their health plans will be so nervous that they will stop making even appropriate denials).

Notwithstanding the fears of the liability of these provisions, however, the preliminary

(not for attribution) projections from CBO seem to assume that the existence of a state-based right of action would increase premiums by only about 1 percent, about one-fourth the total premium hike projected for the Dingell-Ganske bill. (This figure will not be released by CBO until after their first analysis has been circulated next Wednesday or Thursday.) CBO believes that most of the suits are now being directed at doctors and that any new suits against managed care plans would generally substitute for -- not add onto -- what is already out there. The business and labor community strongly believe that state-enforced liability would amount to much more than that and have been actively lobbying CBO to increase their estimate. The business community is projecting 10-30 percent premium increases and many will threaten to drop coverage altogether. Regardless of the true number, the opponents will pull out all of the guns to stop this provision from becoming law. They not only fear this provision in this context, but they are petrified it sets a precedence for all private employer benefits (e.g. pensions) now protected by ERISA to become vulnerable to lawsuits from aggrieved employees.

FF

Internal and external appeals.

Under ERISA you can now go to court to get benefits. You can also go to Labor, HHS or the state insurance commissioner (yapping) who can bring civil and monetary penalties as a look behind? If you are hurt in an ERISA plan, you can only get benefits. If you are not in an ERISA plan (like in an individual market or church plan), you can sue for violation of contract, and can recover damages as permitted by law.

A civil, monetary penalty. Go to court and have individual award. Genetic screening example. Most Federal actions can be brought in state court. Once genetic info goes out in public domain, the problem cant be addressed except through a money award. Defendent pays directly to the plaintiff. Like a Qui Tam suit. Not a trial for damages; it must be in front a jury.

Republicans: A thousand dollars up to a cap. Addresses on ongoing plan problem; not a damages problem.

Federal courts could run a trial with a jury. A new Federal cause of action with new Federal rules.

Alternatives:

6th Amendment problem. Trial for damages needs a jury. End up in state or Federal court with a damage.

Liquidated/schedule damages. Schedule of benefits/damages. You die, you get X much.

Federal cause of action. If you do this, you might have to specifically addresss the issue of punitive dmaages, pain and suffering, loss wages,

Beefed up Agency enforcement. Higher civil and monetary penalties. Right to requires info on compliance form insurers. Do market conduct investigations (the right to do this. Same as what state commisioners have. And money for enforcement

Do an Administrative Law Judge process rather than going to Federal court. Maybe faster and certainly and does not necessarily require a lawyer. Penalties but not damages. Modification of Republican proposal

FF

The business community's opposition to the state-based liability provision has already had a major affect on the debate on the Hill. Despite unwavering support by their traditionally close health care ally (the AMA) for this provision, the Republicans first indicated there would be no enforcement provision. In response to our consistent position that there must be an enforcement provision, the Republicans have now substituted a new provision that allow workers to sue their health plan..

Options include

pros and cons

Conservative Dems may bolt

Labor problem

Now they are saying that their new proposal provides for some level of are not only impacting on the actually quite right will become so prohibitive that some companies are starting state court the test 6 months earlier id not take the test. on the issue of health bene. . remedy s The only truly apparen the only certain way to not reach consensus with the Republicans is to insist that there be an extremely strong enforcement provision, such as the Dingell/Norwood provision that allows for state court liability suits and remedies. enforcement bethe line in the sand issue will almost invariably come down to the enforcement question. This is the one issue that makes the Republicans the most nervous and draws the most opposition within the caucus. (By the way, this is the case with the conservative Democrats as well -- Senator Breaux, Senator Lieberman, etc.)it may well be the case that this is the case with the conserwill be most nervous about and opposed to. What is a sufficient mechanism and are we willing to say no to an otherwise strong bill if it doesn't go as far as we might like

Clearly, the Notwithstanding all of the other provisions now in the Dingell-Kennedy bill that are not in the Republican bill, it appears that the Republicans want to get a bill signed.

possible that this is onte of the issues that , the Republicans are coming so far to us at this point

Administration Positioning.

affirm that we were right all along

President the the premium projections.

generally

w medical necessity provision they want to make sure that we, nor anyone els

and illustrates that they are not serious in

The key to constructing a viable, yet strong (if not impossible to meet) position is to do so in a way that is consistent with our past position and rests on an issue or issues that the public (and perhaps the elite media) will validate as worth drawing the line for which the Republicans must cross.

We now are faced with a situation that, with the exception of the remedies, the poison pill Republican add-ons (MEWAs, medical malpractice, and MSAs), and perhaps a few of the additional provisions in the Dingell-Kennedy bill, it is difficult to imagine not being able to extract all of the additional patient protections.

, would have enforcement provision They

appear to have included reportedly have included most of the major protections you have called for and have actually acknowledged the need for some

\*

September 16, 1998

IBEW POLITICAL AND LEGISLATIVE CONFERENCE

DATE: September 17, 1998  
LOCATION: Hyatt Regency Hotel  
BRIEFING TIME: 9:00 am - 9:20 am  
EVENT TIME: 9:40 am - 10:40 am FROM: Karen Tramontano  
Bruce Reed

I. PURPOSE

To announce a new regulation that brings the Medicaid program into compliance with the Patients Bill of Rights and to reiterate your call on Congress to pass strong patients bill of rights legislation this year.

II. BACKGROUND

The venue selected for this event is the International Brotherhood of Electrical Workers union (IBEW) Political and Legislative Conference. The IBEW supports the HMO Bill of Rights but because it has its own health care fund, IBEW has raised concerns about the enforcement provision. This has not stalled labors support for the bills passage, however. Last Thursday the AFL-CIO launched a 1.5 million dollar media campaign in 13 states in support of Daschle/Kennedy.

You will announce that the Department of Health and Human Services has finalized a new regulation that brings the Medicaid program into compliance with the patients bill of rights. This new proposed regulation will provide critical patient protections to over 20 million Medicaid beneficiaries, including children, people with disabilities, and older Americans. It is part of your ongoing efforts to institute the patients bill of rights for all federal health plans.

Specifically, you will make the following announcements:

A NEW REGULATION TO BRING MEDICAID INTO COMPLIANCE WITH THE PATIENTS BILL OF RIGHTS. You will announce that HHS has finalized a new regulation that will give the over 20 million Medicaid beneficiaries in managed care plans the patient protections they need and deserve. This new regulation will require managed care plans in all fifty states to provide needed patient protections to Medicaid beneficiaries including:

- \*Access to the specialists they need;
- \*Anti-gag rules to ensure that health professionals can discuss all medical treatment options with their patients;
- \*Access to providers for womens health services;
- \*Access to emergency room services when and where the need arises;
- \*Disclosure of clear, up-to-date information about benefits, plan operations, and

protections; and

\*A timely internal appeals process as well as an independent external appeals to assure patients can address grievances with their health plans.

HIGHLIGHT THAT WE HAVE TAKEN EXECUTIVE ACTION TO APPLY THE PATIENTS BILL OF RIGHTS TO TENS OF MILLIONS OF AMERICANS IN FEDERAL HEALTH PLANS. The Medicaid regulation is part of your longstanding effort to bring Federal health plans into compliance with the patients bill of rights. In June, the Department of Health and Human Services extended the patients bill of rights to Medicare beneficiaries. The Department of Defense, the Department of Veteran Affairs, and the Office of Personnel Management have issued directives extending similar patient protections to servicemen and women, veterans, and federal employees. Taken together, these executive actions are extending protections to tens of millions of Americans.

UNDERScore NEED FOR STRONG LEGISLATION AND URGED THE REPUBLICAN LEADERSHIP TO STOP STALLING AND PASS A BILL THIS YEAR. While you have acted to hold Federal health plans implement the patients bill of rights, Congress must act to ensure that private health plans give their patients the protections they need and deserve. Just yesterday, the Republican Leadership again refused to allow an up or down vote on the patients bill of rights. This is an opportunity to urge the Republican Leadership to stop stalling and pass a strong enforceable patients bill of rights this year.

REITERATE WHY THE ADMINISTRATION CANNOT SUPPORT THE REPUBLICAN LEADERSHIP PATIENTS BILL OF RIGHTS. You should reiterate your serious concerns about the shortcomings of the current Republican Leadership bills which:

\*Let HMOs, not informed health professionals, define medical necessity. The Republican Leadership proposals provide for an external appeals process, but make this process meaningless by allowing the HMOs themselves, rather than informed health professionals, to define what services are medically necessary. This loophole will make it very difficult for patients to prevail on appeals to get the treatment their doctors believe they need.

\*Fail to guarantee direct access to specialists. The Republican Leadership proposals fail to ensure that patients with serious health problems have direct access to the specialists they need. This means that patients with cancer or heart disease may be denied access to the doctors they need to treat their conditions.

\*Reverse course on emergency room protections. The Republican Leadership proposals back away from the emergency room protections that Congress implemented in a bipartisan manner for Medicare and Medicaid beneficiaries in the Balanced Budget Act of 1997. The bills include a watered-down provisions that do not ensure coverage for any treatment beyond an initial screening. These provisions put patients at risk for the huge costs associated with critical emergency treatment.

\*Fail to protect patients from abrupt health care changes. The Republican Leadership bills fail to assure continuity of care when an employer changes health plans. These deficiencies mean that pregnant women or individuals undergoing care for a chronic illness may have their care suddenly altered mid course, potentially causing severe adverse health consequences.

\*Allow financial incentives to threaten critical patient care. The Republican Leadership proposals fail to prohibit secret financial incentives to providers. This omission would

leave patients vulnerable to financial incentives that limit patient care.

\*Undermine existing medical privacy protections. The House Republican Leadership bill would preempt some existing medical privacy protections guaranteed by state law, without putting protections in their place. As a result, the Republican bill would increase the number of individuals who can review and give out health records without a patients knowledge or consent.

\*Fail to compensate patients who have suffered harm as a result of a wrongful health plan action. The proposed per-day penalties in the Republican Leadership plans fail to hold health plans accountable when patients suffer serious harm or even death because of a health plans wrongful action. For example, if a health plan improperly denies a lifesaving cancer treatment to a child, it will incur a penalty only for the number of days it takes to reverse its decision; the plan will not have to pay the family for all the damages they will suffer as the result of having a child with a now untreatable disease. And because the plan will not have to pay for all the harm it causes, it will have insufficient incentive to change its health care practices in the future.

\*Do not cover all health plans. Both Republican Leadership bills leave millions of Americans unprotected. The Senate Republican proposal, for example, covers only self-insured plans, thus leaving out more than 100 million Americans, including millions of Americans in small businesses. These Americans are left to hope that states will provide them with the set of patient protections that the Republicans in Congress will not.

### III. PARTICIPANTS

#### Pre-brief participants

Secretary Shalala

Secretary Herman

John Podesta

Bruce Reed or Elena Kagan

Chris Jennings

Karen Tramontano

#### Event participants

Senators Daschle, Kennedy, Harkin

Representatives Palone, Barry, McDermott, Filner

Secretaries Shalala and Herman

AFL-CIO President John Sweeney

IBEW President Jack Barry

IBEW Secretary Ed Hill

IBEW Member Carol Hooper

The audience will be approximately 400 members of IBEWs utility, communications and manufacturing divisions.

### IV. PRESS PLAN

Open Press.

### V. SEQUENCE OF EVENTS

-YOU will be accompanied to the stage by Jack Barry, John Sweeney and Carol Hooper with an

off-stage announcement;

-President Barry will introduced John Sweeney;

-John Sweeney will introduce Carol Hooper, an IBEW member and Business Agent;

-Carol Hooper will introduce YOU;

-YOU will make remarks;

-YOU will work a ropeline and depart.

VI.REMARKS

Remarks provided by Speechwriting.

VII.ATTACHMENT

Patients Bill of Rights Chart

\*(note chart will be on stage)

June 16, 1997

PRESENTATION OF THE CLONING REPORT

DATE: June 9, 1997  
LOCATION: Rosegarden  
BRIEFING TIME: 11:00 am - 11:30 am  
EVENT TIME: 11:30 am - 12:10 am  
FROM: Bruce Reed

I. PURPOSE

To receive the National Bioethics Advisory Commission (NBAC) report on the possible cloning of human beings, and to announce your response to the NBAC recommendations.

II. BACKGROUND

In February, following reports of the first successful cloning of an adult sheep, you asked NBAC to review the profound ethical issues raised by the possible cloning of human beings. At this event, Dr. Harold Shapiro, the Chair of the Commission and President of Princeton University, will formally present you with their report.

The NBAC report makes three key recommendations: (1) Legislation to prohibit for 5 years the use of somatic cell nuclear transfer to create a human being, (2) Keep in effect a moratorium on the use of the "somatic cell nuclear transfer" cloning technique in humans. In a unanimous vote, NBAC concluded that it is morally unacceptable to create a child by using technology that created Dolly the sheep, and (3) Do not ban the cloning of DNA, cells, tissues, and animals using somatic cell nuclear transfer and other cloning techniques that may have agricultural and medical benefits.

You will be making the following announcements to respond to the NBAC recommendations:

- \*Propose legislation banning the use of the new technology to clone human beings, and consistent with NBAC's recommendation, prohibit for 5 years the use of somatic cell nuclear transfer to create a human being without interfering with the beneficial biomedical and agricultural uses of the technology. The legislation also directs NBAC to report back in 4 1/2 years on whether to continue the ban.
- \*Continue to keep in effect the moratorium you put in place in March so that no federal funds will be used to clone human beings,
- \*Urge privately-funded scientists and clinicians to adhere to the voluntary moratorium you called for in March.

III. PARTICIPANTS

Briefing Participants:

Erskine Bowles  
Jack Gibbons  
Elena Kagan

Secretary Shalala  
Harold Varmis  
John Hilley  
Michael Waldman

Event Participants:  
The Vice President  
Dr. Harold Shapiro, NBAC Chair

Also Seated on Stage:  
Secretary Shalala  
Harold Varmis

Members of the National Bioethics Advisory Commission, the Presidents Council Advisory Science and Technology, and Members of Congress, will be seated in the audience.

#### IV. PRESS PLAN

Open Press.

#### V. SEQUENCE OF EVENTS

- You will meet briefly with the members of the National Bioethics Advisory Commission in the Oval Office prior to event. (\*This is the first time you will have met with NBAC.)
- You will be announced into the Rosegarden accompanied by the Vice President, Dr. Harold Shapiro, Secretary Shalala, and Harold Varmis.
- The Vice President will make welcoming remarks.
- Dr. Harold Shapiro makes remarks and presents the NBAC Cloning Report to you.
- You will accept the report and make remarks.
- Following remarks, you will depart the rosegarden and meet with Members of the Presidents Council on Science and Technology in the Roosevelt Room.

#### VI. REMARKS

Remarks Provided by Jordan Tamagni in Speechwriting.

#### FF

Meet and Greet with National Bioethics Advisory Commission

Harold T. Shapiro, Chair of the National Bioethics Advisory Commission, is the President and Professor of Economics and Public Affairs, Princeton University, and is a world-renowned educator and economist. He is a member of numerous honorary professional societies including the Institute of Medicine and has been awarded many honorary degrees. Dr. Shapiro serves on advisory boards to several public organizations and corporations and is a past member of the President's Council of Advisors on Science and Technology (1990-1993). He earned a B-Comm. from McGill University, and M.A. and Ph.D. in economics from Princeton University.

Members of the National Bioethics Advisory Commission

Patricia Backlar, of Oregon, Senior Scholar at the Center for Ethics in Health Care, Oregon

Health Sciences University.

Arturo Brito, M.D., of Florida, Assistant Professor of Clinical Pediatrics at the University of Miami School of Medicine.

Alexander M. Capron, L.L.B., of California, co-director of the Pacific Center for Health Policy and Ethics at the University of Southern California.

Eric J. Cassell, M.D., F.A.C.P., of New York, Physician to In-Patients at The New York Hospital-Cornell Medical Center.

R. Alta Charo, J.D., of Wisconsin, Assistant Professor in the University of Wisconsin Medical and Law Schools.

James F. Childress, Ph.D., of Virginia, Edwin B. Kyle Professor of Religious Studies and Professor of Medical Education at the University of Virginia, and co-director of the Virginia Health Policy Research Center.

David R. Cox, M.D., Ph.D., of California, Professor of Genetics and Pediatrics at the Stanford University School of Medicine.

Rhetaugh Graves Dumas, Ph.D., of Michigan, Vice Provost for Health Affairs, The University of Michigan.

Ezekiel J. Emanuel, M.D., Ph.D., of Massachusetts, Assistant Professor of Medicine, Social Medicine and Clinical Epidemiology at the Dana-Farber Cancer Institute, Harvard Medical School. \*He is Rahm Emanuels brother.

Laurie M. Flynn of Virginia, Executive Director of the National Alliance for the Mentally Ill.

Carol W. Greider, Ph.D., of New York, Senior Staff Scientist, Cold Spring Harbor Lab.

Steven H. Holtzman of Massachusetts, Chief Business Officer, Millenium Pharmaceuticals, Inc.

Bette O. Kramer of Virginia, President of the Richmond Bioethics Consortium.

Bernard Lo, M.D., of California, Professor of Medicine and Director of the Program in Medical Ethics at the University of California, San Francisco.

Lawrence H. Miike, J.D., M.D., of Hawaii, Director of the Dept. of Health, State of Hawaii.

Thomas H. Murray, Ph.D., of Ohio, Professor of Biomedical Ethics and Director of the Center for Biomedical Ethics at the Case Western Reserve University School of Medicine.

Diane Scott-Jones, Ph.D., of Pennsylvania, Associate Professor in the Department of Psychology, Temple University.

\*

April 24, 1998

LEADERSHIP CONFERENCE ON CIVIL RIGHTS MEETING

DATE: Monday, April 27, 1998  
LOCATION: Roosevelt Room  
TIME: 1:30 - 3:30 p.m.  
FROM: Peter Rundlet  
THROUGH: Sylvia Mathews

I. PURPOSE

The purpose of this meeting is to learn about and respond to a number of issues pertaining to civil rights that the members of the Leadership Conference on Civil Rights (LCCR) are concerned about, as well as to inform them of some of the Administrations current priorities in this area.

II. BACKGROUND

LCCR is a coalition of over 185 national organizations committed to the advancement of civil rights laws and policies. LCCR includes organizations representing persons of color, women, labor unions, individuals with disabilities, older Americans, major religious groups, gays and lesbians, and civil liberties and human rights groups. Founded in 1950 by A. Philip Randolph, Roy Wilkinson, and Arnold Aronson, LCCR was created with the mission to implement the historic report of President Truman's Commission on Civil Rights, To Secure These Rights. Dr. Dorothy Height, former President of the National Council of Negro Women, is LCCRs Chairperson and Wade Henderson is the Executive Director.

You have had three previous meetings with LCCR since becoming Chief of Staff -- January 6, 1997, March 7, 1997, and March 13, 1998. At the first two meetings you discussed LCCRs policy agenda. At the last meeting, you, Dr. John Hope Franklin, and other senior members of the Administration discussed the Presidents Initiative on Race. At that meeting, it was determined that this meeting would be held to discuss policy concerns not directly related to the Race Initiative. Maria Echaveste has worked with Wade Henderson to create a list of issues that we expect them to raise with us. The agenda agreed to is attached, along with issue papers that provide background and talking points.

Note: This past Monday evening, April 27, LCCR held its annual Hubert H. Humphrey Civil Rights Award Dinner. At the dinner, LCCR presented its Civil Rights Award to three individuals: Steven Spielberg and Debbie Allen for their joint contribution to the civil rights movement through their work as Director and Producer of the film, Amistad, and to the Honorable Bob Lanier, former Mayor of Houston, for his outstanding leadership of last years campaign to defeat Houston's anti-affirmative action ballot initiative. The President provided LCCR with a video message for the dinner and attended the reception that preceded the dinner.

Note: April 22, the Wednesday before this meeting, was Wade Hendersons 50th birthday.

## III. PARTICIPANTS

## Event participants

Wade Henderson, Executive Director, Leadership Conference on Civil Rights  
Dr. Dorothy I. Height, Chairperson, LCCR and National Council of Negro Women  
Judith Appelbaum, National Womens Law Center  
Barbara Arnwine, Lawyers Committee for Civil Rights  
Marisa Demeo, Mexican American Legal Defense and Educational Fund  
Kahryn Engustian, American Civil Liberties Union  
Joe Ervin, National Council of Senior Citizens  
Anita Perez Ferguson, National Womens Political Caucus  
Jocelyn Frye, National Partnership for Women & Families  
Patricia Ireland, National Organization for Women  
Elaine Jones, NAACP Legal Defense and Educational Fund, Inc.  
Charles Kamasaki, National Council of La Raza  
Joan Brown Campbell, National Council of Churches  
Judith Lichtman, National Partnership for Women and Families  
Robert McAlpine, National Urban League  
Laura Murphy, American Civil Liberties Union  
Karen Narasaki, National Asian Pacific American Legal Consortium  
Michele Pollak, American Association of Retired Persons  
Bob Sakaniwa, Japanese American Citizens League  
Hilary Shelton, National Association for the Advancement of Colored People  
Carole Shields, People for the American Way  
Cynthia "Winnie" Stachelberg, Human Rights Campaign  
Karin Stanford, Rainbow/PUSH Coalition  
Eula Tate, International Union, United Automobile Workers  
William L. Taylor, Vice Chairperson, Leadership Conference on Civil Rights  
Richard Womack, AFL-CIO  
Nancy Zirkin, American Association of University Women

## White House Participants

Erskine B. Bowles  
Sylvia Mathews  
John Podesta  
Maria Echaveste  
Chuck Ruff  
Judy Winston  
Chuck Brain  
Tracey Thornton  
Minyon Moore  
Karen Tramontano  
Elena Kagan  
Dawn Chirwa  
Rob Weiner  
Eddie Correia  
Mark Childress  
Richard Socarides  
Peter Jacoby  
Bob Shireman

Julie Fernandes  
Michael Deich  
Broderick Johnson  
Barbara Chow  
Peter Rundlet

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

\*You welcome participants, formally introduce new White House staff members Eddie Correia and Mark Childress to LCCR, and ask everyone else to introduce themselves.

\*You then give your introductory remarks.

\*You then recognize Wade Henderson.

\*Wade Henderson then makes introductory remarks on the purpose of the meeting and turns to the list of agenda items.

\*You make, OR ask Mark Childress or John Podesta to make, remarks about the status of the nomination and confirmation of judicial and other appointees.

\*You make, OR ask Karen Tramontano or John Podesta to make, remarks about the Administrations efforts with regard to the decennial Census.

\*You make, OR ask Chuck Brain to make, remarks about our strategy to preserve the Presidents budget priorities (specifically, increased funding for civil right enforcement and food stamps for legal immigrants), in light of the ISTEAA bill.

\*You may ask Elena Kagan to provide greater detail on the status of our increased funding request for the EEOC, if necessary.

\*

You may ask Barbara Chow to provide greater detail on the status of our request for funding for food stamps for legal immigrants, if necessary.

\*You make, OR ask Eddie Correia to make, remarks about the Riggs amendment to the Higher Education Reauthorization bill.

\*You make, OR ask Bob Shireman to make, remarks about the voluntary early retirement incentive program (VERIP) amendment to the Higher Education Reauthorization bill.

\*You make, OR ask Maria Echaveste to make, remarks about our efforts to reach out to higher education leaders to promote diversity and inclusion in higher education.

\*You make, OR ask Eddie Correia to make, remarks about Washington states anti-affirmative action ballot initiative (I-200).

\*You make, OR ask Dawn Chirwa to make, remarks about the status of the black farmers

litigation.

\*You make, OR ask Peter Jacoby or Richard Socarides to make, remarks about the proposed Employment Non-Discrimination Act (ENDA).

\*You make, OR ask Peter Jacoby or Richard Socarides to make, remarks about the status of the proposed Hate Crimes Prevention Act.

\*You make, OR ask Broderick Johnson to make, remarks about the proposed Fair Housing Amendments Act of 1998 (H.R. 3206).

\*You make, OR ask Rob Weiner to make, remarks about the Japanese/Latin American redress litigation.

\*Ask Eddie Correia to make a few remarks about the recent D.C. Circuit court decision regarding FCCs affirmative action regulation.

\*Ask Judy Winston to provide a brief update on PIRs April activities.

\*You or Sylvia Mathews close the meeting, thanking them again for their support, and encouraging them to stay in close contact with your staff.

#### VI. REMARKS

Introductory Talking Points (attached at Tab B)

Issue Papers with Background and Talking Points (attached at Tab C)

#### VII. ATTACHMENTS

Agenda (Tab A)

Introductory Talking Points (Tab B)

Issue Papers with Talking Points (Tab C)

**PP**

The Leadership Conference on Civil Rights Meeting

The Roosevelt Room

April 27, 1998

1:30 p.m.

Agenda

1. Nomination and Confirmation of Judicial Appointees and Other Executive Branch Nominees

2. The Decennial Census

3. Budget Implications of the ISTEA Bill, Generally

- Specifically with Regard to Civil Rights Enforcement
  - Specifically with Regard to Immigration Policy Issues (i.e., Food Stamps)
4. Higher Education Issues:
    - Higher Education Reauthorization -- Riggs Amendment
    - Higher Education Reauthorization -- Early Retirement & Tenured Faculty
    - PIR Outreach Plan to Higher Education Leaders
  5. Black Farmers Litigation
  6. Washington State Anti-Affirmative Action Ballot Initiative (I-200)
  7. Legislation:
    - Employment Non-Discrimination Act (ENDA)
    - Hate Crimes Prevention Act of 1998
    - Fair Housing Amendments Act of 1998 (H.R. 3206)
  8. Japanese/Latin American Redress Litigation
  9. Other Issues and Wrap-up

## ERSKINE BOWLES TALKING POINTS

### I. INTRODUCTIONS

\*I want to thank everyone for coming today.

\*I enjoyed our previous three meetings and believe that they were productive. I am looking forward to discussing several issues of mutual concern with you. Before we start, I would like to go around the room and introduce ourselves. I am Erskine Bowles, Chief of Staff at the White House, and with me today are a number of the senior White House staff who will introduce themselves. Before they do, however, I would like to make special introductions for three of the newest members of our staff, all of whom I imagine you may have worked with in other contexts.

\*Eddie Correia was recently named Special Counsel to the President for Civil Rights. Eddie comes to us most recently from Northeastern Law School in Boston, where he taught Constitutional and anti-trust law. Prior to this, Eddie was Chief Counsel to former Senator Howard Metzenbaum. Eddie is overseeing our current and continuous effort to defend reasonable, appropriate affirmative action.

\*Mark Childress joined us less than one month ago as Senior Counsel for Nominations. Prior to joining us, Mark served for many years as Counsel to the Senate Labor Committee, where, among other things, he took the lead on many important nominations. You can rest assured that Mark is working full time to help us nominate and confirm new judges to the federal bench.

\*Broderick Johnson also joined us about a month ago as Special Asssistant to the President for Legislative Affairs. Broderick primarily will cover issues related to education, labor, judiciary, and housing and banking. Prior to this appointment, Broderick was Chief Counsel to the House Education Committee. In that role, he led the fight to increase the minimum wage and he helped defeat Speaker Gingrich's school voucher plan.

\*Please welcome Eddie, Mark, and Broderick; I encourage you to stay in contact with all of them.

[After introductions are concluded, make opening remarks below.]

\*I know that there are a number of issues on our agenda that we need to discuss -- and we will turn to them in a moment. Before we do, though, I want to take a moment to thank all of you for your superb efforts in helping us defeat two attempts to eliminate the Disadvantaged Business Enterprise (DBE) program in the ISTEA reauthorization bills in both the House and Senate. Both amendments to eliminate this necessary and fair affirmative action program were defeated handily in bi-partisan votes. Thanks to your efforts, we all have reason to celebrate.

\*I also want to thank you, again, for strongly supporting many of the Presidents nominees. You supported the nomination of Bill Lann Lee, and we responded by appointing him as the Acting Assistant Attorney General for Civil Rights. As you know, we are maintaining our effort to have the Senate remove the "Acting" from his title, by confirming him as the Assistant Attorney General for Civil Rights.

\*Since we first started meeting, we have made great progress on many of our shared objectives -- from holding the Hate Crimes Conference last November to defeating Houston's anti-affirmative action initiative to following through with several policy initiatives designed to reduce economic, educational, and health disparities, and much more. The President has placed a high priority on many of the issues that concern you most. Of course, we have further battles to fight together, and we look forward to working with you on all of them.

\*Wade, I know that you have been talking with Maria Echaveste about a number of issues you would like to discuss today. Would you like to make any remarks before we turn to the agenda?

[Turn to the Issue Papers]

**☐☐** Index to the Issue Papers

Note: The list of issues below follows the order of the Agenda (and are tabbed accordingly) and the name of the White House staff person responsible for handling the issue is indicated. Each of them is expected to attend the meeting and each will be prepared to make remarks about their issue or respond to any question that you would like them to handle.

1. Nomination and Confirmation of Judicial Appointees: Mark Childress

2. Confirmations of Jim Hormel and Fred Hochberg: Karen Tramontano

- 3.The Decennial Census:Karen Tramontano
- 4.Budget Implications of the ISTEA Bill (Generally):Chuck Brain
5. -Specifically with regard to civil rights enforcement:Elena Kagan
6. -Specifically with regard to immigration policy/food stamps:Barbara Chow
- 7.Higher Education Reauthorization -- the Riggs Amendment:Eddie Correia
- 8.Higher Education Reauthorization -- ADEA & tenured faculty:Bob Shireman
- 9.PIR Outreach Plan to Higher Education Leaders:Maria Echaveste
- 10.Washington States Anti-affirmative Action Initiative (I-200):Eddie Correia
- 11.Black Farmers Litigation/Legislation:Dawn Chirwa
- 12.Employment Non-Discrimination Act (ENDA):Peter Jacoby or Richard Socarides
- 13.Hate Crimes Legislation:Peter Jacoby or Richard Socarides
- 14.Fair Housing Amendments Act of 1998 (H.R. 3206):Broderick Johnson
- 15.Japanese Latin American Redress:Rob Weiner

Other (non-agenda) possible issues:

- 16.The FCC Affirmative Action Decision in the D.C. Circuit:Eddie Correia
- 17.Update on PIRs April ActivitiesJudy Winston
- 18.Nomination and Confirmation of Judicial Appointees

Staff Persons: Mark Childress or John Podesta

Note:Because of the importance of this issue to LCCR, you may want to ask John to make a few remarks before asking Mark.

#### Background

Wade Henderson and others from the Leadership Conference on Civil Rights (LCCR) are concerned about our overall plan and efforts to confirm candidates to the federal bench. Wades efforts last year helped to focus attention on the Senates failure to move nominees. Now that the Senate has taken action on a number of nominees, Wade is likely to emphasize the need for us to speed up the pace of nominations.

From the beginning of the Clinton Administration, a high priority has been placed on appointing qualified candidates from diverse backgrounds to the federal bench. Two statistics demonstrate the extent to which the Administration has succeeded: 1) President Clinton has nominated more minority and women judicial candidates than any previous president; and 2) President Clinton has had more nominees confirmed that were rated "well

qualified" by the American Bar Association than any previous president:

Clinton I & IIBushReagan I & II

Number Of Nominations:327195385

% Women and Minorities:51%27%14.5%

ISSUES: Most importantly, Wade is likely to express disappointment over the slow pace of nominations coming out of the White House. He has recently pointed out that the Senate has confirmed more nominees (20) in 1998 than we have nominated (17). (Although by the time of the meeting, we should have nominated more.) Without underrating our mutual concern about speeding up the pace of nominations, it is difficult to limit comparison of confirmation and nomination numbers to 1998 because, for example, of the 20 nominees confirmed this year, an average of 285 days passed between nomination and confirmation, with several of the nominees waiting years for confirmation.

The answer to Wades concern is to maintain a steadily increasing pipeline of nominees -- which we are now in a position to do. We have been delayed in producing nominations by a number of factors including delays in receiving names from Senators, but we now should be able to nominate 18-20 candidates prior to the Memorial Day recess, beginning with several nominees the week of the 20th. (We also nominated four candidates immediately prior to the current Congressional recess). We are on track to nominate several candidates virtually every week between now and the end of May. These estimates are based on candidates already identified, and most of these are out being reviewed by the ABA and FBI right now.

If we meet this ambitious schedule, we will have cut in half the current number of vacancies for which we do not have a nominee. It is probably worth stressing to Wade that we keenly understand the limited time left for getting judges confirmed, which is why we are making an all-out push to get nominees before Memorial Day. This effort includes negotiating with the American Bar Association to meet a much more expedited schedule for reviewing nominees, and pressing Senators for names for all remaining vacancies.

Wade Henderson may also express concern about the extraordinarily long time certain nominees have been awaiting confirmation. Specifically, 6 of the 8 judicial nominees who have been delayed the longest, (nominated over 1 year ago), are women or minorities. (Mark Childress has details on these 6 nominees). The good news is that we are seeing some movement on at least a couple of these long delayed nominations, and we will continue to push on all of the nominees.

#### Talking Points

\*You all know about President Clintons commitment to diversity on the federal bench. This Administration has placed far more minorities and women on the federal bench than any previous Administration.

\*Your efforts in focusing attention on delays in the judicial confirmation process were vital to breaking the deadlock in the Senate last year, and we have recently been seeing real progress on Capitol Hill in addressing the backlog.

\*I know that you are concerned about the pace of nominations, and I share that concern. We

have to act more rapidly to send judicial nominees up to the Senate, and we will.

\*We sent up four nominees immediately prior to the most recent Congressional recess, and we sent up more nominees immediately upon Congress's return last week. And we will be adding to a steadily increasing pipeline over the next few months.

\*I believe that we will have 18-20 nominees sent up to the Senate between now and the Memorial Day recess. In fact, we should be sending up several names virtually every week between now and the end of May.

\*Your efforts in persuading Senators to send us names of potential nominees have been critical to our ability to put a pipeline into place, but I have to ask you to continue to help in that regard; with, of course, a special emphasis on seeking diversity candidates.

\*Mark Childress has recently joined us as our new Senior Counsel for Nominations and he can give you more background on where we are.

If you want to say something about Frederica Massiah-Jackson:

(Wade may mention the failed candidacy of Frederica Massiah-Jackson, the Philadelphia judge who withdrew her nomination after significant controversy arose over her alleged leniency in criminal sentencing.)

\*We want to thank you for helping us deal with a very delicate situation in the case of Massiah-Jackson's nomination. We were adamant that under no circumstances were we going to ask her to withdraw.

\*Fortunately, with your assistance, she was finally able to make her case for confirmation in a public forum, which enabled her to make the personal decision that she withdraw.

**FF**Confirmation of Jim Hormel (if raised)

Staff person: Karen Tramontano

#### Background

As you know, the President nominated Jim Hormel to be Ambassador of Luxembourg. Secretary Albright worked with Senator Helms to get Hormel voted favorably out of the Committee. He has been on the Executive Calendar since last fall. Senators Inouye, Hutchinson (Arkansas), and Smith (NH) have holds on the nominee because he is gay. According to these three Senators, they do not oppose Hormel because he is gay, they oppose him because he is a gay activist.

We have been working each week to try to get the "holds" released. From the beginning of this battle, LCCR and Wade Henderson have been supportive. LCCR wrote a letter to Senator Lott supporting Hormel and asking that a vote be scheduled. You should thank LCCR for their early support and for their letter.

We currently have 54 votes, we are trying to get 60. If appropriate, you could ask LCCR for any help they could offer to add to our list of Republicans. The two strongest Republican supporters are Senators Hatch and Gordon Smith (Washington). Senator Lott has said he believes there is not sufficient time to deal with this issue, but he has stopped short of saying he will not schedule a vote. Frank Rich wrote a very strong piece recently

in the New York Times. We have a lobbying strategy that involves the Human Rights Campaign and the State Department talking with Republicans who we believe will vote for cloture and for Hormel.

The only issue that LCCR may raise is that Secretary Albright--of late--has not said anything in public supporting the nominee. We have really tried to hold Albright for the final push, rather than have her in the public debate on this issue. The advocacy groups are concerned about this strategy--we are reevaluating it with the State Department. There is a Time Magazine story that is due out Monday and State is putting Albright in that story to quell these concerns.

LCCR may ask what the President has done with regard to Hormel. He has talked with Senator Lott about giving Hormel a vote. And, last month while in California he publicly stated his support for Hormel and said he thought the Senate should schedule a vote.

#### Talking Points

\*We are working very hard to break the logjam on Jims nomination. Were pleased with the recent favorable press and believe that Senator Lott ultimately will be forced to give us a vote.

\*We appreciate the help you have given us so far on this important nomination.

**FF**Confirmation of Fred Hochberg (if raised)

Staff person: Karen Tramontano

#### Background

Fred Hochberg has been nominated by the President to be the Deputy Director of SBA. I am not sure that this issue will be on LCCRs list. The Republicans have successfully centered the debate about Hochberg on his finances. Additionally, Hochberg has not wanted to make the issue be that he is gay. As a result, we have been very low key about this nominee with the advocacy groups, including LCCR.

If they do raise the issue, the current status is as follows: Senator Bond had been refusing to hold a hearing unless he can review all the documents in the White House relating to this nominee. Buzz Waitzkin in Counsels office has done a very good job of narrowing the scope of Bonds inquiry. As a result, we have a resolution to the issue. Senator Bond reviewed a narrower set of documents on Friday. We believe that he will now schedule the hearing for Hochberg. At this time we believe we have the votes to confirm Hochberg.

#### Talking Point

\*We had a good meeting with Senator Bond on Friday and he has agreed to hold a hearing, probably on May 12th. This is real progress and we believe we have the votes to confirm Fred.

**FF**The Decennial Census

Staff person: John Podesta or Karen Tramontano

Note: Because of the importance of this issue to LCCR, you may want to ask John to make a few remarks before asking Karen.

#### Background

The Leadership Conference on Civil Rights is very involved in the Decennial Census. In 1990, as you will recall, there were many problems with the census. The one that most concerns LCCR is the undercount of minorities. They are part of the Census 2000 coalition (put together to support an accurate Decennial Census) and at LCCRs annual conference this week they hosted a panel discussion on achieving accuracy in the next census--which included a discussion of sampling.

As you know, the Republicans in the House with the exception of Chris Shays, oppose our plan to use sampling. Our goal is to have the most accurate census, employing the most up-to-date, scientific methods with the most cost-effective use of taxpayer dollars. Statistical sampling has been endorsed by the National Academy of Sciences--the Justice Departments for the Carter and the Bush Administrations have found sampling to be legal and constitutional.

The Leadership Conference supports sampling but has additional concerns. They are concerned they we have not selected a permanent director to replace Dr. Ritchie, who left the Census Bureau at the end of January. The Secretary of Commerce and the White House will have interviewed the top three finalists for this position on Friday, April 24. We will have a recommendation memo to the President as soon thereafter as possible. The position is confirmed by the Senate so the Presidents selection will have to be vetted, which will take some time. Carolyn Maloney and other Democrats in the House want us to appoint Barbara Bryant -- President Bushs Census Director. I doubt very strongly that we will make that recommendation to the President, although she has been interviewed for the position. We have not told any of the advocates that it is unlikely Bryant will be selected. I recommend you do not mention it to this group. If you are asked, you should say that Bryant is under consideration.

The President has appointed the Census Monitoring Board -- with Tony Coehlo as one of the Co-Chairs. The Monitoring Board has 8 members -- 4 Republicans and 4 Democrats with Republican and Democratic Co-Chairs. The Board will have two Executive Directors. I believe LCCR is happy with the appointments, although they were concerned that the vetting process took too long.

Another concern is whether the Commerce Department and the Census Bureau can accomplish all they have to accomplish as the 2000 census gets more politicized. This is a legitimate concern but one that the Commerce Department and the Census Bureau is aware of and both are up for the challenge. Finally, LCCR has been very helpful to us in this process, you should thank them.

#### Talking Points

\*The Administration is focused on ensuring we have a fair and accurate census, that we are using the most up-to-date technology including sampling, and that every one is counted. In 1990, the Census Bureau undercounted millions of individuals -- many minorities, children and women. We do not want that to happen again.

\*This is a priority for our Administration and we are putting the people in place to see

that it receives the appropriate attention. John Podesta is our point person here in the White House.

\*The Senate recently confirmed the Presidents nominee for Undersecretary for Economic Affairs -- Rob Shapiro, who has oversight of this matter in the Commerce Department. The White House has interviewed several finalisst for the Director of the Census Bureau and we will be making a recommendation to the President shortly.

**FR**Budget Implications of the House and Senate ISTEAs Reauthorization Bills  
(H.R. 2400 and S. 1173)

Staff person: Chuck Brain

#### Background

The highway bill now in conference spends approximately \$33.4 billion in outlays above the surface transportation levels proposed in the Presidents FY 99 budget submission. The intent of Chairman Shuster and Congressman Oberstar is to fund the additional highway spending with the mandatory spending cuts proposed in the Presidents budget as offsets for Administration initiatives. If the mandatory offsets are insufficient, as they are likely to be, the Speaker has instructed the conferees to reduce the discretionary spending pot by the amounts needed to offset the rest of the bill. These exorbitant highway funding levels will inevitably exert a crowding out effect on the already constrained pool of domestic discretionary resources.

If we assume the level of domestic discretionary funding in the Presidents budget, the highway bill would require a 2 percent outlay reduction in the other non-defense accounts and up to a 3.9 percent reduction in budget authority for FY 99.

The ultimate endpoint of the highway bill is by no means clear. It is uncertain whether the conference can get a majority of votes for all the offsets proposed in the Presidents budget. In addition, the House bill contains approximately 1600 "demonstration" projects portioned out roughly 55% to 45% between Republicans and Democrats. The Senate bill contains none. Finally, due to the vote, 96-4 in the Senate and 337-80 in the House, the President may be faced with a bill that has veto proof margins in both chambers

#### Talking Points

\*We have become increasingly concerned regarding the effects of the spending in the highway bills on the remainder of the budget, in general, and our priorities, in particular. There has been much confusion concerning the total costs of both of these bills and exactly how this spending would be offset.

\*According to the current estimates, it now appears that the House bill would cost an additional \$34.5 billion beyond current projections. The Senate bill would cost an additional \$35.5 billion.

\*Under current budget rules, all of this spending would have to be offset with other spending reductions. In fact, since some of the spending in the House bill is mandatory spending, the necessary offsets would have to come from mandatory programs. Rather than identify specific spending reductions, one rumor that weve heard is that they might simply reduce the spending caps for discretionary spending by the amount needed.

\*We share your concerns regarding the effects of this bill on our priorities and government programs.

\*We are now beginning the process of dealing with the transportation committee staffs and the leadership to make them realize how big a job they have to offset the amount of spending they want to do. We hope that we will be able to instill some reality into their thinking and to realize that there will be much more opposition to the Conference Report than there was to the bills when they were considered in the House and Senate. We're going to make it clear that they have a tough job to do.

\*As the Conference on this proceeds, we will determine if they are improving the bill and what our final attitude on signing will be.

**FF** Specific Issues with Civil Rights Enforcement Budget

Staff person: Elena Kagan

#### Background

The Administration's 1999 budget contains \$279 million for the EEOC -- \$37 million (15%) more than the enacted 1998 budget. Funds will go to reduce the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by the year 2001 through a combination of investments in information technology, increased use of mediation, and increased staffing.

On March 3, 1998, Speaker Gingrich testified before the Education and Workforce Committees Subcommittee on Employer-Employee Relations and indicated support for the President's EEOC budget request, conditioned on the agency implementing six "reforms" to its operation:

- (1) improvements to the investigative and intake processes (including greater supervision of the process by lawyers);
- (2) a significant reduction of the backlog of cases and the length of time for case processing;
- (3) a more appropriate allocation of resources to charge processing vis-a-vis litigation;
- (4) expanded use of alternative dispute resolution;
- (5) clarification of the criteria for litigation by the EEOC; and
- (6) an agreement by the EEOC not to use its scarce resources for employment testers.

Congressmen Fawell and Goodling subsequently sent a letter to Chairmen Livingston and Rogers supporting Gingrich's position.

On Friday, April 17, 1998, EEOC staff met with Rogers and Fawell's staff to better determine where they are headed. The EEOC believes that they can come to a favorable agreement on the first five "reforms." However, the Speaker has made clear to Fawell and Rogers that the provision related to testers is a "line in the sand."

At this point, we are still unsure of the breadth of the Speaker's suggested reform related to testers. At a minimum, Gingrich wants the EEOC to agree not to spend any money in FY99 on hiring employment testers. Though the EEOC currently has a very small pilot program to explore whether and how the agency could use testers, the program is only funded through the end of this fiscal year, and there are no plans to expand it. The FY99 budget does not include any money for testers. However, depending on the results obtained from the pilot, we may want to include a testing program as part of a future EEOC budget. Thus, we could

likely agree not to spend money on testers in FY99 as long as the agreement would not limit the agency's ability to use or hire testers in the future and did not in any way send a signal that we do not think that testing is an appropriate tool for civil rights enforcement.

However, Gingrich's condition may be broader -- perhaps to include a prohibition on the use of evidence obtained from testers generally (commissioned by non-profits, for example). This would be very difficult for us to agree to. It could be interpreted as questioning the validity of the use of employment testers in the enforcement of anti-discrimination laws. The use of testers is an established tool for the enforcement of the Fair Housing Act, and HUD now provides grants (through the Fair Housing Initiative Program) to non-profits for the use of testers to gather evidence in housing discrimination cases. Also, the President's FY99 budget includes an additional \$10 million for HUD to conduct a nationwide testing program.

#### Talking points

\*The Administration is committed to working hard to get a 15% increase (\$37 million) for the EEOC in FY99. Though we have been encouraged by the expressed support of Speaker Gingrich and others in Congress on this issue, we are concerned that some of the conditions for their support may inhibit the agency's ability to effectively determine how to allocate resources, set litigation priorities, or utilize effective tools for the enforcement of federal anti-discrimination laws. Most particularly, we are concerned about the Speaker's suggested "reform" that would prohibit the agency from utilizing discrimination testers.

\*The EEOC currently has a small pilot program to determine whether and how to use testers as part of their enforcement arsenal. This program ends at the end of this fiscal year. The EEOC's FY99 proposed budget does not include any money for testers.

\*Though the EEOC could likely commit to not employing testers in FY99, we are concerned that Gingrich and others may try to statutorily limit the EEOC's ability to use testers in the future or to limit the ongoing use of evidence obtained by outside testers (e.g., those employed by non-profits). This would be a very bad result. Though we have not yet concluded that the EEOC's use of testers is effective and appropriate (the pilot has been operating for approximately 6 months), we do not want to tie the agency's hands.

\*Moreover, we do not want to signal that the use of testers is not an appropriate tool for enforcement of the anti-discrimination laws generally. This is particularly true in light of the President's strong endorsement of the use of testers in the housing context, reflected in his request for a new \$10 million for HUD to conduct a nationwide testing program.

\*Our strategy is to continue to meet with Hill staff (both Democratic and Republican) to determine precisely what their bottom line is on the issue of testers. If, in order to get necessary Republican support for our budget request, the agency would need to agree not to employ testers in FY99, we need to assess whether this commitment would somehow institutionalize the limitation, thus making it harder for the agency to use testers in the future. If, however, they want a broader restriction, we need to assess the degree to which such a limitation weakens the agency's ability to effectively enforce the law.

**Budget Implications on Food Stamps for Legal Immigrants**

Staff person: Barbara Chow

## Background

The 1996 welfare reform bill denied Supplemental Security Income (SSI) and Food Stamps to most legal immigrants currently in the country and who enter in the future. Immigrants who enter after the enactment of welfare reform are also denied means tested benefits, including Medicaid and TANF, for their first 5 years.

The Balanced Budget Act (BBA) significantly reversed these restrictions and restored benefits to immigrants. The BBA restored SSI benefits to 420,000 immigrants in FY 1998 at a cost of \$11.5 billion over 5 years (CBO estimate).

\*The Conference Report on the agriculture research bill reflects a bipartisan agreement to address Congressional and Administration priorities. Using offsets almost entirely from the Food Stamp program, the bill restores Food Stamps to vulnerable groups of immigrants, including children, refugees, the elderly and disabled, and addresses priority agriculture issues.

--The bill provides more than \$800 million over five years and restores benefits to 250,000 people in 1999, including 75,000 children. These provisions are financed using less than half (43%) of the Food Stamp savings in the bill.

--The bill helps 5 important groups: children, the elderly, individuals with disabilities, refugees and asylees, and Hmong who helped the U.S. during the Vietnam conflict.

--The provisions for the elderly and the disabled mirror what was provided for them in SSI and Medicaid in last years BBA. In general, the bill only provides benefits to individuals who were in the country as of the signing of the welfare bill in 1996. The bill provides assistance to immigrant children -- a group that did not receive any restorations in the BBA.

Status of the Legislation. Majority Leader Lott is apparently concerned that the agriculture research bill uses a \$1.7 billion offset from Food Stamp administrative costs which is earmarked in the Senate budget resolution to finance highway spending. It is possible that the House will try to use these funds for transportation as well. As noted above, several other Republican Senators have also expressed concerns with the bill.

\*We have urged the Senate leadership to allow the Conference Report to be considered by the full Senate in its entirety. Delaying consideration or splitting the report will create a conflict between spending on highways and spending on farmers and vulnerable immigrants. The Administration believes that restoring food assistance to vulnerable immigrants and improving programs for our nations farmers is the highest priority.

## Talking Points

The Presidents FY99 Budget included a comprehensive \$2.4 billion proposal to restore Food Stamps to vulnerable groups of legal immigrants who lost benefits due to the cuts in welfare reform that had nothing to do with moving people from welfare to work.

Through the Administrations efforts, the Conference Report on the agriculture research bill provides over \$800 million to restore Food Stamp benefits to legal immigrants. The major offset in the bill saves \$1.7 billion from Food Stamp State administrative costs.

The agriculture research bill, which also contains funding for some other Administration priorities in addition to legal immigrants -- crop insurance, agriculture research, rural development -- is currently being blocked from consideration in the Senate.

Majority Leader Lott had indicated to Senator Harkin that he would bring the bill up for Senate floor consideration after the Easter recess. We are hopeful that this will occur, but significant hurdles remain. Several Republican Senators reportedly have "holds" on the bill and there is a rumor that at least one (possibly Sen. Gramm) may offer a motion to recommit the bill to strip out the food stamp provisions, a motion we would strongly oppose.

Higher Education Reauthorization Bill: The Riggs Amendment

Staff person: Eddie Correia

#### Background

The higher education reauthorization bill is likely to be on the floor of the House in the next two weeks. Rep. Riggs (R-Calif.) may offer an amendment that would bar any college or university receiving federal funds from considering race or gender in its admissions decisions. The practical effect of the Riggs amendment would be to prohibit hundreds of institutions from using affirmative action in admissions to increase the diversity of their student body. It goes further than Prop. 209 because it applies to private institutions as well as public institutions. It would lead to drastic drops in minority enrollment in major universities and graduate schools throughout the country. Consequently, there is enormous concern in the civil rights and higher education communities about the amendment.

We have a good chance of prevailing in the House, but the importance of the issue warrants significant efforts. (A comparable amendment in the Senate is unlikely.) White House staff have been working with the Department of Education to develop briefing materials for Members. Secretary Riley (perhaps joined by the Attorney General) intends to send a strong letter to Members opposing the amendment and recommending a veto if it is enacted. The President could also send a short letter opposing the amendment. These statements would parallel those made by the administration prior to the DOT/DBE vote. The Riley/Reno letter will be coordinated with the release of the SAP on the overall bill.

#### Talking Points

\*We have all seen stories about the drastic decline in minority enrollments in California as a result of a bar on affirmative action. The full story is actually worse since the final enrollment levels will be even lower.

\*Many of the minority applicants who were rejected were extremely well-qualified to do the work; many had outstanding academic records. The fact that they were denied admissions means that the educational experience of all of the students who were admitted will suffer. We cannot tolerate a country where the classrooms at our best universities are full of white faces.

\*The President strongly opposes the Riggs amendment and we are working hard to defeat it. He considers it one of his highest priorities.

\*With your help, the House and Senate recently rejected efforts to kill the Department of

Transportations Disadvantaged Business Enterprise (DBE) program. The Administration and the country are grateful for your hard work on those votes. We intend to make the defeat of the Riggs amendment the third straight vote for reasonable affirmative action.

\*I know representatives of LCCR have met recently with White House and Department of Education staff. Please let us know what we can do.

**FF**Higher Education Reauthorization Bill: Early Retirement and Tenured Faculty

Staff person: Bob Shireman

#### Background

Overview: A House committee has moved legislation that includes an exception to the Age Discrimination in Employment Act (ADEA) to allow colleges to target early retirement incentives on tenured professors. College and faculty organizations support the change. The AARP (and, we anticipate, the LCCR) oppose the idea because it would discriminate against older workers; e.g., a 55-year-old targeted for early retirement would be eligible, while a 65-year-old with the same or more years of service would not. The EEOC also opposes the change. Discussions on a possible compromise have begun (at the Administrations suggestion).

As part of the 1986 ADEA amendments that prohibited mandatory retirement ages for most workers, Congress permitted colleges and universities to continue requiring tenured faculty members to retire at age 70 until the end of 1993. Colleges were concerned that without mandatory retirement, aging faculty would be unremovable because of tenure, leaving less room for new faculty who are traditionally the source of new ideas.

Congress directed the EEOC to seek advice from the National Academy of Sciences on whether to continue the exemption from the mandatory retirement prohibition for tenured faculty. In 1991, the NAS concluded that ending mandatory retirement would not be a problem for most colleges and universities. Some research universities, however, "are likely to suffer adverse effects from low faculty turnover: increased costs and limited flexibility to respond to changing needs and to provide support for new fields by hiring new faculty." The NAS recommended that to address this problem, Congress should permit age-capped retirement incentive programs. However, no changes have been made in response to that recommendation, and colleges are concerned that EEOC and court decisions have narrowed rather than expanded the options available to them. For the past several years, colleges have been lobbying for legislation permitting a broader array of voluntary early retirement incentive programs (VERIPs).

The AARP, the EEOC, and others have opposed the VERIP proposals in Congress. They argue that offering a retirement incentive that is available only when a worker is younger (such as age 60) rather than older (such as age 70) allows just the type of arbitrary, age-based discrimination that the ADEA was intended to prohibit.

The House Education and the Workforce Committee included a VERIP amendment in its proposal for reauthorization of the Higher Education Act. Similar legislation has been introduced in the Senate. We are preparing a SAP on the House bill, and the EEOC has recommended language opposing the VERIP proposal. Administration officials (NEC) have spoken to the AARP, EEOC, and higher education representatives, and have urged them to attempt to reach a compromise on this issue.

## Talking points

\*We are aware of the problems with the early retirement incentives proposal that has been included in the House bill reauthorizing the Higher Education Act.

\*However, we are also mindful of the National Academy of Sciences recommendation in 1991 that some additional options be provided to address reduced faculty turnover as a result of the prohibition on mandatory retirement.

\*We are encouraging the EEOC to sit down with the higher education community and the AARP to see whether a compromise can be worked out on this issue.

\*The SAP has not been finalized, but it will certainly also attempt to push in the direction of compromise on this issue.

**PE** PIR Outreach Plan to Higher Education Leaders

Staff person: Maria Echaveste

## Background

LCCR has expressed concerns about the Administrations response to the attacks on diversity in higher education. While they applaud the Presidents defense of affirmative action and his impassioned call for continued diversity in institutions of higher education, they hope to see more leadership in this area.

In response to Hopwood and Prop. 209, in connection with the Presidents Initiative on Race and in anticipation of continued attacks on affirmative action in higher education, the Administration has undertaken the following steps:

\*Begun meeting with university leaders informally, together with ACE, to discuss the possibility of the creation of an independent coalition of university leaders, possibly also including foundation and corporate leaders. This coalition would undertake an aggressive and proactive campaign to educate the public about the value of diversity in higher education -- to make the case to the public. The coalition would also share best practices for how to achieve diversity in a changing legal environment.

\*Our preliminary conversations have been very positive with leaders of the some of the countrys elite institutions. Our goal is to have a core group of 20-30 leaders who will publicly commit to this undertaking and who will, in turn, seek to expand the number of people with credibility to make the case.

\*The Administration is also meeting regularly with persons involved in ongoing litigation to stay informed of potential opportunities for action. This area is more problematic since it involves litigation and it is not always clear that Administration action would be helpful in a particular case. We are committed, however, to ensuring that the Administration stays fully informed and fully engaged on this issue.

## Talking Points

[Maria Echaveste would like you to ask her to make the remarks with regard to this issue.]

**PE** Washington States Anti-Affirmative Action Ballot Initiative (I-200)

Staff person: Eddie Correia

#### Background

This fall the voters of the State of Washington will decide whether to adopt I-200, a ballot initiative modeled after California's Proposition 209. It will represent the third high profile ballot initiative following the adoption of Prop. 209 and the rejection of a similar initiative in Houston. The outcome will be closely watched as a signal of where the country is heading on affirmative action. The demographics of Washington are less favorable to defeating the initiative than Houston's. On the other hand, the voters tend to be more progressive, and one of the leading opponents of the initiative is Gary Locke, the popular Asian-American Governor.

White House staff have been in contact with elected leaders in Washington as well as advocacy groups working to defeat I-200. At one point, their strategy was to offer an alternative ballot initiative, which would have conveyed a "mend it, don't end it" message. This was rejected because of procedural problems, the costs of mounting a signature drive and mixed signals about the support it would receive. The opponents of the initiative need help in raising funds and in communicating their message in a way that has broad appeal. We cannot help them raise money, but we can encourage Cabinet Secretaries and others to visit the state to speak on the issue. The opponents of the initiative have asked for our help in arranging for visits by the Secretary of State, the Secretary of HHS, and Colin Powell, among others.

#### Talking Points

\*The ballot initiative in Washington will be a critical test of the country's direction on affirmative action. The Administration cares about this vote and we want to help.

\*We understand that the demographics in Washington are different than in Houston. Women and moderates will be critical to the outcome.

\*Our staff has been in frequent contact with people in Washington. We have offered our assistance and we will continue to work with, and take the lead from, them. We understand that financial support is critical, but raising money for their effort is something we cannot do. However, we may be able to help in other ways, for example, by speaking out about the importance of the issue.

#### **Black Farmers Litigation**

Staff person: Dawn Chirwa

#### Background

We have been informed that it is likely LCCR will wish to discuss issues related to black farmers at our meeting. In anticipation of this, Dawn Chirwa spoke with Wade Henderson to discuss the impact of the Justice Department's Office of Legal Counsel (OLC) opinion with him and the steps we are taking to resolve the problems caused for particular black farmers by the statute of limitations bar. He was pleased with our efforts and said that the issue is still likely to come up, but primarily as a request for an update on our efforts.

As you know, the Justice Department's OLC opinion concludes that the statute of limitations

in the Equal Credit Opportunity Act bars claims by many black farmers. The opinion was released last week and copies were sent to interested Members of Congress. Since the opinion was released, the team working on this issue (USDA, Justice, and from the White House -- WH Counsel, Legislative Affairs and Public Liaison) has been working closely with Hill staff on legislation that would provide remedies for farmers currently barred from relief by the statute of limitations.

Various Members have expressed considerable interest in passing such legislation, including Reps. Clayton, Thompson, Waters, McKinney, Conyers, the Speaker and Rep. Smith, Chairman of the Agriculture committee. Our team met with staff from the Speakers office and majority staff of the House Agriculture committee last week to discuss USDAs proposed legislative language. The meeting went well and it appeared that the staff was interested in working cooperatively with the Administration on passing legislation. Legislative Affairs and USDA are also engaged in ongoing discussions with House and Senate Democrats and are working with them on legislative language changes. At the same time, we are working with representatives of the black farmers to ensure that any concerns they have with the legislation are addressed.

On the litigation front, we are awaiting the district courts decision on the statute of limitations issue. Justice filed papers with the district court last week arguing the same position articulated in the OLC opinion. In opposition, the black farmer plaintiffs have argued essentially that the statute of limitations should be equitably tolled with respect to all the farmers cases. It is highly unlikely that the plaintiffs will prevail on this issue. Of course, there is always the possibility that the court will rule against the government. We do not expect, however, that the court will rule prior to our meeting with LCCR. Until the court rules on this and other legal issues, mediation of the farmers cases is being held in abeyance.

In addition, WH Counsel is discussing with Justice other, non-legislative means of remedying the problems caused by the statute of limitations. The OLC opinion did leave open the possibility that, in certain cases, an argument could be made that the statute was equitably tolled. While we are exploring this option in the event the legislation does not pass, these arguments are very difficult to make and will not help all farmers harmed by the statute of limitations. This is why we have made the legislative route our first priority. However, you should know that Wade Henderson is particularly concerned that we continue to explore this option and we have assured him that we are doing so.

Finally, WH Counsel has also asked a team of USDA and Justice staff to explore enforcement actions that can be taken against individuals within USDA who are discriminating against farmers. It will be important to point this out to LCCR attendees.

#### Talking points

\*We understand and appreciate the concern you and others have expressed over OLCs conclusions with respect to this statute of limitations issue. We share your desire that all black farmers who have suffered from discrimination be able to obtain a remedy for the harm done to them; we do not like the effect of this statutory provision any more than you. I want to let you know what we and USDA have done in this area and what we are doing to address the OLC opinion.

\*As you know, Secretary Glickman has made it a top priority of his to provide a remedy for the farmers who have faced discrimination by USDA. Recently, he reconstituted the team set

up to review claims of discrimination to expedite the process and get farmers with valid claims their money sooner, including hiring 14 new full-time investigators. He also brought on a new Associate General Counsel for Civil Rights (David Harris) and a Special Assistant for Civil Rights (John Sparks) who works directly for the Secretary and is overseeing the review process to ensure it is moving along efficiently.

\*USDA has closed 295 program discrimination cases of the 1,088 total. There have been 15 settlements -- some in the hundreds of thousands of dollar range. (For example, recently, Mr. Eddie Ross from Mississippi received a settlement in excess of \$300,000.) Of the remaining cases, 180 are claims of discrimination filed by African-American farmers. The Secretary hopes that the new team in place will soon clear up the backlog.

\*Justice and USDA are also looking at ways to take enforcement action against discriminators within USDA to attack the problem at the source.

\*As for the statute of limitations issue, I am personally committed to doing everything we can to pass legislation which will cure the problems this time bar creates. In recent days, my staff has been working closely with the Hill on a bi-partisan basis on such legislation. I also had a conversation with the Speaker about the legislation; he was receptive and his staff have been very cooperative with our staff. We will continue to keep you informed of our progress.

**FF**The Employment Non-Discrimination Act (ENDA)

Staff person: Peter Jacoby or Richard Socarides

#### Background

Overview: The Employment Non-Discrimination Act (ENDA) would provide federal protections against employment discrimination based on sexual orientation. Those protections are currently provided based on race, religion, gender, national origin, age and disability. The measure would prohibit employers (including Congress), employment agencies and labor unions from using an individual's sexual orientation as a basis for employment decisions, such as hiring, firing, promotion, or compensation. Employers could not subject an individual to different standards or treatment based on that individual's sexual orientation --real or perceived --or discriminate against an individual based on the sexual orientation of those with whom he or she associates.

Additionally, the bill prohibits any form of preferential treatment, including quotas, and prohibits discrimination claims based solely on statistics ("disparate impact" claims). It does not require an employer to provide benefits for the same-sex partner of an employee. Although the bill does not apply to religious organizations, including schools and educational institutions that are substantially controlled or supported by religious organizations, it does apply to their "for-profit activities subject to taxation." Finally, the measure does not apply to the armed forces or to small businesses with fifteen (15) or fewer employees.

Legislative Status: In the Senate, Senators Kennedy (D-MA), Jeffords (R-VT) and Lieberman (D-CT) have gathered 35 cosponsors for their bill since its introduction last year. Additionally, Senator Jeffords as Chairman of the Labor and Human Resources Committee held a hearing on the measure last October. Unfortunately, however, the measure remains mired in the Labor Committee because Chairman Jeffords cannot convince any Republican on the Committee to join him and vote to report the measure to the full Senate. Consequently,

there is a debate going on within the ranks of the bills supporters over whether they should continue to work to secure the necessary votes in the Labor Committee (an approach strongly favored by Senator Jeffords) or take the bill directly to the Senate floor and offer it as an amendment to some appropriate legislative vehicle (an approach favored by Senator Kennedy). Given the closeness of the vote on this measure when it was offered as a floor amendment during the last Congress (49-50), the high number of cosponsors, and the likely votes of freshman Senators, any floor vote can be expected to be very close.

In the House, Congressman Frank (D-MA) and Congressman Shays (R-CT), the measure's lead sponsors, have signed up a total of 158 cosponsors (12 Republicans and 146 Democrats) for ENDA. That number will jump to 159 when Lois Capps (D-CA) signs on to the measure after Congress returns from its Easter recess. This represents the highest number of cosponsors the measure has had since it was first introduced several Congresses ago.

While the bill introduced in this Congress is much more moderate than previous versions of ENDA, the measure has not gained much support from Republicans, especially the moderate northeastern and Californian Republicans whose support will be critical for moving this bill through the House. Consequently, the measure is not a priority in any of the committees with jurisdiction (Judiciary, Government Reform and Oversight, Education and the Workforce and House Oversight) - which have not held a single hearing on the measure - or for the Republican House leadership.

#### Talking Points

\*We are strongly committed to getting ENDA passed in the Senate during this Congress. To that end, we will support all efforts to bring the measure to the floor of the Senate for debate and passage.

\*With respect to ENDA, moderate Republican support is the key in both the House and the Senate. This bill is about creating a government that is fair and doesn't interfere in the private lives of its citizens - this should have great appeal to moderate Republicans.

\*In the House, there are many Californian and northeastern Republicans who have not yet cosponsored the bill and we should work to get those Members on board.

\*In the Senate, moderate Republicans are the key, especially those swing Republicans on the Labor Committee like Senators Frist, Collins, DeWine and Warner, and we will work to gain their support.

**FF**The Hate Crimes Prevention Act of 1998

Staff person: Peter Jacoby or Richard Socarides

#### Background

Overview: The Hate Crimes Prevention Act of 1998 is designed to give federal prosecutors both the statutory authority and the necessary resources to prosecute flagrant acts of racial or religious violence, gay-bashing, gender-motivated violence and violence against the disabled. Specifically, the measure expands the federal government's current ability to punish racial violence by removing unnecessary jurisdictional requirements in existing law. The measure also gives federal prosecutors new authority to prosecute violence against women, the disabled and gays.

On the resource side, the measure would authorize additional funding to hire the necessary law enforcement personnel to investigate and prosecute hate crimes. The bill would also authorize new spending for programs designed to prevent hate crimes. Finally, the measure directs the U.S. Sentencing Commission to determine whether additional criminal sentencing enhancements would be appropriate for adults who recruit juveniles to commit hate crimes.

Senator Kennedy and Congressman Schumer introduced the measure in the Senate and the House last November in conjunction with the Presidents White House Conference on Hate Crimes. The Attorney General is strongly supportive of the measure which is modeled after the highly effective Church Arson Prevention Act passed by Congress two years ago.

Legislative Overview: In the Senate, Senator Kennedy has been pressuring Judiciary Committee Chairman Hatch (R-UT) to convene a hearing on the hate crimes legislation. Senator Hatch has reportedly agreed to hold a hearing but he has been slow to deliver. One concern that Senator Hatch has expressed, which has been echoed by other opponents of the measure, is that this may be an issue better left to state jurisdiction. Due to the uncertainty in Committee, sponsors had originally planned to offer the measure to S. 10, the Senates juvenile crime bill. That measure, passed by the Judiciary Committee last fall, is currently stalled in the Senate due to the Senate Republican leaderships fears that Republicans will be forced to vote on politically volatile amendments offered by Democrats during the measures floor consideration.

In the House, Congressman Schumer (D-NY) has garnered 64 cosponsors for the measure but no action is expected. It is unlikely that any activity will occur until the Senate acts.

#### Talking Points

\*We are strongly committed to enacting Hate Crimes legislation during this Congress. To that end, we will support all efforts to bring this measure to the floor of the Senate for debate and passage.

\*With respect to the Hate Crimes bill, we should be working to get Senator Hatch to hold a hearing on the measure prior to the Memorial Day recess. Following that, we must identify an appropriate legislative vehicle to get it through the Senate.

**FF**Fair Housing Amendments Act of 1998 (H.R. 3206)

Staff person: Broderick Johnson

#### Background

On February 12, 1998, Representatives Charles Canady (R-FL), Brian Bilbray (R-CA), and Jane Harman (D-CA) introduced H.R. 3206, the "Fair Housing Amendments Act of 1998." The legislation constitutes a major restructuring of the Fair Housing Act, which celebrates its 30th anniversary this year. The Fair Housing Act is regarded as fundamental civil rights legislation, and thus H.R. 3206 has caused great concern among the civil rights community and fair housing advocates.

As currently drafted, H.R. 3206 addresses complicated matters involving relationships between the Fair Housing Act and the First Amendment; protections against discrimination based upon familial status; the relationship between state and local governments and the federal government on zoning and land use issues; and complaint procedures under the Fair Housing Act. These issues were hotly debated and resolved during debate and passage of the

"Fair Housing Amendments Act of 1988".

Two major concerns of LCCR with regard to H.R. 3206 have to do with: (1) whether it should be made more difficult to bring Fair Housing Act cases against those who publicly espouse opposition (in the context of zoning proceedings, for instance) to certain disabled and minority persons living in their neighborhoods; and (2) the ability of state and local governments to cluster group homes in certain neighborhoods and whether they can restrict the categories of persons who can live in certain such homes and neighborhoods (e.g., disabled persons as opposed to recovering substance abuse patients).

The original version of the bill is apparently being modified since the bill was considered by the House Judiciary's Subcommittee on the Constitution. Some of these changes were made to address criticisms raised by Subcommittee Democrats (led by Ranking Democrat Bobby Scott (D-Va)). Nevertheless, the bill was reported out of the subcommittee on a straight party line vote, and the anticipated changes are not likely to affect HUD's recommendation that the Administration strongly oppose the bill. A coalition of advocacy groups, which includes civil rights groups, disability groups, and religious organizations, is likely to continue to strongly oppose the bill. The National League of Cities is a major supporter of the bill.

Full Judiciary Committee consideration has been delayed several times, but could occur as early as next week.

#### Talking Points

\*The President has made clear his unequivocal commitment to strong, fair, and effective enforcement of the Fair Housing Act, and HUD's recent enforcement program under Secretary Cuomo exemplifies the President's commitment.

\*The 30th anniversary of enactment of this landmark civil rights statute is certainly no time to weaken that law or to retreat from our nation's commitment to fair housing for all Americans. The various issues raised in H.R. 3206 are best addressed through joint efforts by HUD and the Justice Department, perhaps involving greater flexibility, rather than through the changes advanced by this legislation.

\*The Administration stands ready to work with the Congress, civil rights and fair housing advocates, and such entities as the National League of Cities to try to achieve mutual objectives. Nonetheless, we remain strongly opposed to this or any other legislation that threatens the ability of minorities and the disabled to be protected under the Fair Housing Act.

**FF**

Japanese - Latin American Redress Litigation

Staff person: Rob Weiner

#### Background

During World War II, several Latin American countries sent residents of Japanese descent to the U.S. to be used for prisoner exchange with Japan or interned in U.S. camps. Approximately 2300 Japanese Latin Americans, most from Peru, were brought here. Of these, we sent 800 to Japan during the war. Another 900 left after the war. Most of these went to Japan because Peru and other Latin American countries would not let them return. Others

remained here and eventually became citizens.

In 1988, Congress enacted the Civil Liberties Act to apologize for the internment of Japanese Americans and to authorize a \$20,000 payment to eligible internees. "Eligible" internees included only those who were American citizens or permanent resident aliens at the time of internment. "Permanent resident aliens" included only persons "lawfully admitted into the United States for permanent residence." The U.S. government has deemed most Japanese Latin American internees ineligible because they were brought to this country against their will for internment or prisoner exchange, rather than admitted for permanent residence.

Five Japanese Latin Americans brought a class action, *Mochizuki v. United States*, in the U.S. Court of Claims seeking redress under the Civil Liberties Act. They claim:

- (1) they were "lawfully admitted" because the U.S. government brought them here, and they were "permanent residents" because they came for an indefinite time period;
- (2) they should be treated as "permanent residents under color of law" -- a constructive permanent residency status used under some welfare statutes to provide benefits; and
- (3) to deny redress unconstitutionally discriminates based on national origin.

The U.S. has opposed these claims on the basis that the statute clearly intended to exclude these individuals and that Congress has broad constitutional power to distinguish between citizens, permanent residents, and others.

In January 1998, the President responded to a letter from Representative Tom Campbell, who had urged settlement of the *Mochizuki* case. The President stated that:

My staff and the Department of Justice explored thoroughly the possibilities of redress for these people under the Civil Liberties Act of 1988. The Act provides redress to persons of Japanese ancestry who were citizens or permanent resident aliens at the time of their internment. Unfortunately, many Japanese individuals from Latin American did not have such status at that time. . . . Nor is it within my power to confer the requisite status retroactively.

Although this is a succinct statement of the position that the Administration has taken in the *Mochizuki* litigation, it does not resolve whether the Justice Department has power, as part of its overall authority to settle lawsuits, to settle this one by offering some compensation from the redress fund.

After struggling with the issue, the Justice Department offered to settle the case for \$5,000 per claimant. The offer of 25 cents on the dollar reflected an assessment of the low litigation risk of the case, which the Justice Department must consider in settling cases, as well as the amount of money left in the fund. Absent a settlement, approximately \$6-8 million should be left in the redress fund when the program sunsets in August 1998. If all 1300 Japanese Latin American claimants sought redress at \$5000 each, the total claimed would be \$6.5 million.

After initially rejecting the offer, representatives of the Japanese Latin Americans decided to accept it. A few items remain to be negotiated, but they are unlikely to derail the settlement. The representatives of the Japanese Latin Americans are likely to want the Administration to seek legislation to treat their clients the same as others who can make claims on the redress fund.

## Talking Points

\*We are pleased that settlement negotiations appear to be on track and that a resolution appears to be within reach.

\*We believe that the moral claim of Japanese Latin Americans to redress stands on the same footing as the claim of Japanese-Americans who were interned during World War II. Unfortunately, the legal basis of their claim under the Civil Liberties Act was not strong, and the Justice Department had to be able to justify a settlement legally.

If LCCR brings up legislation:

\*We are happy to work with you on a legislative solution that treats Japanese Latin Americans the same as other internees. You should recognize that it will not be easy to achieve such a solution, and you will need to put in a great deal of effort with us.

**FF**The FCC Affirmative Action Decision

Staff person: Eddie Correia

## Background

A unanimous panel of the D.C. Circuit just struck down FCC rules that require a radio station licensee to engage in a number of outreach and recruiting efforts in order to achieve a diverse workforce. Lutheran Church-Missouri Synod v. FCC. (The panel was made up of three of the most conservative judges in the circuit.) The licensees were required to provide EEO notices to employees, to submit information on their hiring, and to use minority-specific recruiting sources. Such requirements are common in EEO programs. The court found these requirements, as applied, amounted to race classifications under Adarand and, therefore, triggered strict scrutiny. It held that the FCCs asserted interest, "diversity in programming," was not compelling, and, in any event, the rules were not narrowly tailored to accomplish it.

The most serious problem is that the opinion could make it difficult to justify common recruiting and outreach requirements in many areas, including contracting, and hiring. For example, the opinion says that FCCs policy of reviewing the hiring record of licensees puts pressure on employers to make certain hiring decisions. Obviously, most EEO programs will involve some type of review. The government has an interest in determining whether an outreach program is ever implemented and whether it is working. This review is important even if the government makes it as clear as possible that it is assessing outreach efforts, not actual hiring or contracting decisions. If the opinion means that any race-specific recruiting or outreach program that creates even the slightest incentive to hire minorities triggers strict scrutiny, it could have very wide and devastating affect. DOJ is currently considering its options, one of which is to ask for a rehearing en banc (in front of a panel of the full D.C. Circuit).

## Talking Points

\*The administration is deeply concerned about the recent FCC decision and the implications that it has for recruiting and outreach requirements in affirmative action programs. I know Rev. Jackson, Wade Henderson, and others met with Bill Lann Lee to express their views on this case, and I know Bill understands your feelings.

\*Recruiting and outreach efforts are essential if affirmative action programs are going to work and if we are going to open up opportunities for people who have been shut out of them. Even conservative Republicans support recruiting and outreach, so that is a sign of how extreme this opinion is.

\*The Justice Department and the FCC are studying this decision now. One of the options is to ask the full circuit to grant a rehearing on the decision. We will be monitoring this case closely.

**FF**Highlights of Recent Activities of the Presidents Initiative on Race

Staff person: Judy Winston

Note: Judy will briefly review for LCCR the following events.

ESPN Conversation on Race and Sports. On April 14, the President participated in the ESPN discussion in Houston, Sports and Race: Running In Place?. The conversation was successful in moving the dialogue on race forward and reaching an audience that may not have been aware of the Race Initiative. Participants from the sports world included current and former athletes, coaches, and executives in football, baseball, basketball, and track and field.

They included:

Jim Brown, former football player; currently president of Amer-I-Can program  
Vince Dooley, former college football coach, currently university Athletic Director  
Dennis Green, professional football coach  
Keyshawn Johnson, professional football player  
Jackie-Joyner Kersee, five-time Olympic medalist in track and field  
Felipe Lopez, college basketball player  
Joe Morgan, former professional baseball player, currently ESPN sports broadcaster  
Carmen Policy, president of professional football team  
John Thompson, college basketball coach  
John Moores, owner of professional baseball team

Three Advisory Board members (Governor Winter, Reverend Cook, Mr. Thomas), consultant Laura Harris, and Executive Director Judy Winston also attended.

HUD Roundtable Discussion on Fair Housing. In commemoration of the 30th anniversary of the Fair Housing Act, the U.S. Department of Housing and Urban Development conducted a public meeting and roundtable discussion on April 23 in Newark, New Jersey, with representatives from fair housing and community organizations. The meeting focused on race and housing issues in New Jersey. Advisory Board members Franklin and Kean participated in the discussion. HUD Assistant Secretary for Fair Housing and Equal Opportunity Eva Plaza also participated in this event.

Statewide Days of Dialogue. Statewide Days of Dialogue is an effort to involve governors, mayors, and others in the Race Initiative by issuing a proclamation, participating in a dialogue, organizing a town hall meeting on race, or other activities. Statewide Days is being launched on April 30 in conjunction with the YWCAs National Day to Erase the Hate and Eliminate Racism. To date, 16 Governors, several Mayors, and more than 100 YWCA's in 37 states and the District of Columbia have agreed to participate. Attorney General Reno will be attending a Capitol Hill luncheon related to these events and Secretary Riley will be

participating in a dialogue with school children in Birmingham, Alabama.

Campus Week of Dialogue. Campus Week of Dialogue engaged colleges and universities across the country in the Race Initiative in town hall meetings, smaller discussions, campus-community projects, and other activities. Close to 600 schools participated in Campus Week of Dialogue events from April 6-9, including universities both large and small, historically black colleges and universities, Hispanic serving institutions, tribal colleges, and community colleges. Advisory Board members and Initiative staff participated in a number of events at different campuses. Cabinet participants included Attorney General Reno and Secretary Babbitt. White House staff participating in Campus Week events included Maria Echaveste.

\*MEMORANDUM FOR ELENA KAGAN

FROM:Julie Fernandes

CC:Cynthia Rice

RE:Public Charge -- remaining legal issues

DATE:January 11, 1999

Recent changes in the welfare and immigration laws, along with changes in the Medicaid program, have created some confusion about how Medicaid and Food Stamps should be considered in the determination of whether an alien is or is likely to become a "public charge." Determination as a "public charge" has significant consequences for an alien -- it can cause them to be denied admission to the United States, deported, or denied permanent residency. By statute, the INS and State Department are required to consider the aliens age, health, family status, assets, resources, financial status, education and skills when considering whether he or she is or is likely to become a public charge.

There have been documented instances in which aliens have been denied re-entry to the U.S. because they had received Medicaid or Food Stamps. Moreover, aliens have been told that receipt of Medicaid and/or Food Stamps will have a negative effect on their immigration status. These cases have translated into widespread concern in immigrant communities about legal receipt of these benefits, even where the beneficiary is a U.S. citizen child. The concern about negative immigration consequences associated with the legal use of Medicaid and Food Stamps interferes with the Presidents goals of increasing insurance coverage and improving public health.

After much discussion and debate, the INS and the State Department have agreed to issue guidance that past or current use of Medicaid, the Childrens Health Insurance Program (CHIP), or Food Stamps (or their state analogs) is not to be considered in determining whether a person is likely to become a public charge for purposes of admission to the U.S. or adjustment of status, except where an alien has received long-term institutionalized care funded by Medicaid.

However, we have not reached resolution on how these programs should be treated for purposes of deportation based on having become a public charge. Section 237(a)(5) of the INA states that "[a]ny alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable." Under the INSS current policy -- informed by a 1948 decision of the Board of Immigration Appeals (BIA), Matter of B.

-- if an alien is subject to the new binding affidavit of support (post-December 1997 aliens only) and (1) receives a public benefit (like Medicaid or TANF) within five years after entry, (2) there is a demand for repayment of the value of that benefit from the benefit-granting agency, and (3) the sponsor refuses to pay, the alien can be subject to deportation for being a public charge. The theory is that since the new affidavit of support creates a binding obligation on the part of the sponsor to support the alien, a failure on the sponsors part to meet that obligation creates an unpaid debt for which the alien is responsible, and thus the alien is deportable as a public charge.

With regard to the receipt of federal welfare benefits, this rule has almost no application -- most aliens entering the U.S. are not eligible for Medicaid and/or Food Stamps for the

first five years (unless, of course, we manage to restore some benefits to post-Welfare Act aliens in FY 2000). However, states are free to provide welfare-like benefits (including state-only food and health benefits) to post-Welfare Act aliens. Thus, aliens in jurisdictions where state-only benefits are available may be deterred from taking advantage of these programs if they believe there may be deportation consequences down the road. In addition, some states do not make clear whether benefits offered are state-only or federally financed, and thus some aliens may be deterred from taking advantage of any medical and/or food benefits for fear of the possible deportation consequences.

#### Issue #1

We would like to be able to assure legal immigrants that legal use of Medicaid, CHIP, and Food Stamps -- or their state analogs -- would never lead to deportation. The legal question that we have posed to the Department of Justice is how we can get to this result in light of the aforementioned BIA case (Matter of B.) that sets out this multi-part test for when a finding of public charge is triggered. According to DOJ, the binding affidavit of support creates just the kind of debt that Matter of B. contemplated.

The Department has indicated that in order for the Attorney General to take certain programs (like Medicaid or Food Stamps) off the table for purposes of triggering the Matter of B. test, she must issue a regulation. However, they have suggested that it may be possible to issue interim guidance that directs INS officers not to consider Medicaid or Food Stamp use as a basis for a debt that could trigger deportation, pending the issuance of a regulation that effects this change. OLC is looking into whether this option is legally permissible.

#### Issue #2

We would like the INSS guidance to lay out a clear analytical distinction between those programs that should be considered for purposes of the public charge analysis, and those that should not.

The current version of the guidance lists examples of those programs that should be considered in the public charge analysis (TANF, SSI) and those that should not be considered (Food Stamps, Medicaid, WIC, etc.), but does not articulate the basis for distinguishing one group from the other. Thus, if an immigration or consular officer is presented with an alien who is receiving benefits from a program not listed, there is no guidance to that officer about whether to consider this program for public charge purposes.

HHS has made the argument to the INS that the distinction should be between cash and non-cash benefits (with an exception for those who reside in a long-term care institution; though the benefit they receive is non-cash, they are wholly dependent on it for food and shelter). The State Department, while not endorsing any particular framework for the overall distinction, has long relied on the conclusion that Food Stamps are "supplemental" for determining that receipt of Food Stamp benefits should not be considered for purposes of public charge.

According to DOJ and INS, they have not yet concluded whether they can -- in light of their past administrative decisions re: public charge -- separate programs based on a cash/non-cash or a supplemental/non-supplemental distinction.

October 30, 1996

MEMORANDUM FOR LEON PANETTA

FROM: Bruce Reed  
Paul Weinstein  
Peter Jacoby  
Jim Webber  
Elena Kagan

SUBJECT: Possible Q&A on President's Campaign Finance Reform Announcement

QUESTION: Why are you announcing this now?

RESPONSE: This announcement is consistent with the President's had a long-standing commitment to campaign finance reform and to changing business as usual in Washington. In the last three years, the President repealed the tax loophole for lobbyist deductions, enacted legislation to make the Congress and the White House live by the same laws Washington applies to rest of the nation, signed legislation to require lobbyists to disclose how much they spend and what they spend it on, enacted the line-Item Veto, and made it easier for millions of Americans to register to vote.

In 1992, the President made campaign finance reform a central piece of his agenda and throughout his first term he pressed the Congress to pass real, bipartisan legislation.

QUESTION: Both parties have been unable to resolve the campaign finance reform issue for years, why should the American people expect you and Congress to take action next term?

RESPONSE: Last Congress we enacted Lobbying Disclosure, the Gift Ban, Congressional Accountability Act, the Line-Item Veto. We have a proven track record of getting the job done on political reform. Campaign finance reform is the last step, and most important step. I believe that the Congress should and must make passage of McCain-Feingold a priority. I challenge Congress to pass McCain-Feingold in the first six months of the 105th Congress, and not deny the American people any longer.

QUESTION: There has been a lot of controversy about foreign contributions to the DNC. Do you think it is wrong to accept contributions from foreigners?

RESPONSE: I do believe the system is broken, and needs to be fixed. The voting public must have confidence that the process is fair and works for them. That is why I agree with Senators McCain and Feingold that real, bipartisan campaign finance reform must include effective limitations on foreign contributions. If you can't vote you cannot contribute.

QUESTION: Does your support for limitations on foreign contributions mean that you will direct the DNC to stop taking such contributions immediately and return those contributions received this elections cycle?

RESPONSE: It is clear that the system is broken and that the rules need to be changed. I support banning these contributions by law. We need quick action by Congress on this issue as part of comprehensive, bipartisan campaign finance reform. (Question: should the President commit to endorsing a ban on accepting contributions from all non-citizens -- on

a unilateral basis -- until Congress acts?)

QUESTION:How will you enforce this ban, and how broad will it be? For example, would the ban include U.S. subsidiaries of foreign-owned corporations?

RESPONSE:Many of the specific details of the ban would have to be worked out with Congress. However, the principle is clear, if you can't vote, you can't contribute -- individual contributors would have to certify citizenship.

With regards to corporate contributions, the McCain-Feingold bill would ban PACs and eliminate the current "soft money" system. Therefore, no corporate entity, foreign or domestic, could make a Federal campaign contribution.

QUESTION:If you believe it is wrong to accept foreign campaign contributions, is it wrong to accept foreign contributions to your legal defense fund?

RESPONSE:I do not allow the Legal Defense Fund to accept contributions from registered lobbyists and PACs. In addition, contributions are limited to \$1,000. (Additional recommended response is: "In the future, my legal defense fund will not accept contributions from foreign donors.")

QUESTION:Aren't you, by endorsing the bipartisan commission as a fallback position, undermining any real hope that McCain-Feingold will pass?

RESPONSE:I have been and remain a strong supporter of McCain-Feingold, and believe the principles of that legislation are the key elements of real reform: spending limits; curbing PAC and lobbying influence; free and discounted broadcast time; and ending the "soft money" system. I support a commission only as a last resort, if the Congress lacks the political will to pass McCain Feingold. The benefit of a Commission is that it takes the politics out of the reform effort.

QUESTION: Mr. President, you are challenging Congress to pass McCain-Feingold in the first six months of the 105th Congress. Will this be a number one priority for your administration?

RESPONSE:This will be a key priority in my second term. I have long felt that this is one of the most important issues facing the American political system. We must restore the faith of the American people in their political leadership in order to build a bridge to the 21st century. [D]

g:data\travel\SUB2.REQ

DRAFT -- JANUARY 29, 1996

MEMORANDUM FOR:ALL STAFF OF THE WHITE HOUSE, THE EXECUTIVE OFFICE OF THE PRESIDENT, THE OFFICE OF MANAGEMENT AND BUDGET, THE OFFICE OF THE VICE PRESIDENT AND THE EXECUTIVE RESIDENCE

FROM:Jane C. Sherburne  
Special Counsel to the President

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."<sup>11</sup>For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"<sup>22</sup>For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

- 1."All records related to the General Accounting Office review of the White House Travel Office."
- 2."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."
- 3."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express up to the time of this letter."
- 4."All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials to the present."
- 5."Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White House Travel Office and any records of contact or communications with IRS Commissioner Peggy Richardson by Mack McLarty, Webb Hubbell, Bruce Lindsey, Vince Foster, Bill Kennedy, or any other member of the White House Counsel's office<sup>33</sup>For a list of the lawyers who have served in the White House Counsel's Office from May 1, 1993 to the present, see Attachment 2. from May 1, 1993 to the present."
- 6."All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993)."

7. "Any records relating to any proposal to use independent financing or unused Presidential Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts."

8. "Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster records."

9. "Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phone or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)"

10. "All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to present."

11. "All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work."

12. "All records relating to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events."

13. "All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to the present." 44 Bill Kennedy's effective date of resignation was 11/21/94. David Watkins' effective date of resignation was 6/17/94.

14. "All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases."

15. "All records related to Harry Thomason and/or Darnell Martens discussing pursuing contracts with GSA, all records related to ICAP, and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens action at the White House."

16. "All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the \$3000 per month retainer provided to Mr. Watkins by the Clinton for President campaign."

17. "All records of any contacts, communications or meetings regarding the 'Watkins memo' produced to the Committee on January 3, 1996 and the chain of custody of this memo."

18. "All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office."

19. "All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House."

20. "All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter as defined (in the accompanying "Definitions and Instructions"), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale to the present."

21. "All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter as defined (in the accompanying "Definitions and Instructions"). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr."

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior requests. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 5, 1996.

If you have any questions regarding the House subpoena request, please call Associate Counsel Natalie R. Williams (6-5079) or Special Counsel Jane C. Sherburne (6-5116).

Thank you for your cooperation.

PF

DRAFT -- JANUARY \_\_, 1996

MEMORANDUM FOR: OFFICE OF RECORDS MANAGEMENT

FROM:

SUBJECT: Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."<sup>11</sup> For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"<sup>22</sup> For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1. "Any records related to the White House Travel Office matter or the White House Project"<sup>33</sup> For purposes of responding to these requests, please use the following definition of "White House Project" which appears in the Committee subpoena: The White House Project "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." from the following individuals and/or offices (which would also include all assistants and secretaries): The White House Counsel's Office,<sup>44</sup> For a list of the lawyers who have served in the White House Counsel's Office from May 1, 1993 to the present, see Attachment 2. Maggie Williams, Capricia Marshall, Lisa Caputo, Neel Lattimore, Isabelle Tapia, Mary Beck, Vince Foster, Deborah Gorham, Linda Tripp, Bill Kennedy, David Watkins, Catherine Cornelius, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Ricki Seidman, Mark Gearan, Dwight Holton, Andre Oliver, Todd Stern, Jean Charleton, Brian Foucart, Janet Greene, Beth Nolan, Clifford Sloan, Mack McLarty, Bill Burton, David Dreyer, Anne Edwards, Rahm Emmanuel, David Leavey, Bruce Lindsey, Darnell Martens, Matt Moore, Dee Dee Myers, Lloyd Cutler, Jane Sherburne, Abner Mikva, Mark Fabiani, Tom Hufford, Roy Neel, John Podesta, Rita Lewis, David Gergen, Craig Livingstone, Marjorie Tarmey, Ira Magaziner, Bernard Nussbaum, Jennifer O'Connor, Penny Sample, George Stephanopoulos, Frank Stidman, Harry Thomason, Lorraine Voles, Jeremy Gaines, Dale Helms, David Gergen, Joel Klein, Neil Eggleston, Steve Neuwirth, Cheryl Mills, Jurg Hochuli, Andris Kalnins, Matt Moore and Bruce Overton."

Jack: This request should be discussed with Clinger. It is extremely burdensome for us to try and identify all of the assistants and secretaries who worked in the Counsel's Office since the beginning of the administration.

Also in the last request, we proffered a definition of "White House Project," based on the Committee's description of this effort in correspondence. Perhaps we should ask the Committee to give us a definition of the term so that there is no confusion.

2. All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason and Maggie Williams.

Jack: This request captures records wholly unrelated to the Travel Office matter or White House project -- even as they have so broadly defined the terms. We should explain to them that we are not providing records wholly unrelated to these matters. I think we should collect them in any event so that we have them available.

3. All calendars, phone records, message slips or phone logs of the following individuals for the period May 1, 1995 through November 30, 1995: Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Maggie Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughn, [any employee of the Military Office], Larry Herman, John Shutkin, [any employee of KPMG Peat Marwick], Billy Ray Dale, Barney Brasseur, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman, David Sanford.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior requests. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 5, 1996.

If you have any questions regarding the House subpoena request, please call Associate Counsel Natalie R. Williams (6-5079) or Special Counsel Jane C. Sherburne (6-5116).

Thank you for your cooperation. **FF**

JANUARY \_\_, 1996

MEMORANDUM FOR: ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT: Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

"Any records related to the White House Travel Office matter or the White House Project from the following individuals and/or offices (which would also include all assistants and secretaries). . ."

We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ].

**FF** DISTRIBUTION LIST

The White House Counsel's Office

Capricia Marshall

Lisa Caputo

Neel Lattimore

Mary Beck

Mack McLarty

David Dreyer

Rahm Emmanuel

David Leavey

Bruce Lindsey

Jane Sherburne

Mark Fabiani

Tom Hufford

Roy Neel

Craig Livingstone

Marjorie Tarmey

Ira Magaziner

Jennifer O'Connor

George Stephanopoulos

Frank Stidman

Lorraine Voles

Jeremy Gaines

Dale Helms

Steve Neuwirth

Cheryl Mills

Jurg Hochuli

Andris Kalnins

Bruce Overton FEBRUARY 11, 1995

MEMORANDUM FOR: ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT: Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

1. "Any records related to the White House Travel Office matter or the White House Project from the following individuals and/or offices (which would also include all assistants and secretaries); and
2. All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993, and May 1, 1995 through November 30, 1995.

We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that

already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ]. **FF**DISTRIBUTION LIST

Maggie Williams  
Catherine Cornelius  
Patsy Thomasson  
**FF**JANUARY \_\_, 1995

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

1."Any records related to the White House Travel Office matter or the White House Project from the following individuals and/or offices (which would also include all assistants and secretaries); and

2.All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993.

We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ]. **FF**DISTRIBUTION LIST

Mack McLarty  
Bruce Lindsey  
Jennifer O'Connor  
George Stephanopoulos  
**FF**

DRAFT -- JANUARY \_\_, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT: Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

1. All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993.

We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ] . **FD** DISTRIBUTION LIST

Leon Panetta

Jack Kelly

**FD**

DRAFT -- JANUARY \_\_, 1996

MEMORANDUM FOR: ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT: Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

1. "Any records related to the White House Travel Office matter or the White House Project from the following individuals and/or offices (which would also include all assistants and secretaries)" and

2. All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1995 through November 30, 1995.

We understand that in many instances the House subpoena is identical to the December 19,

1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ].**FF**DISTRIBUTION LIST

Jane Sherburne**FF**  
DRAFT -- JANUARY \_\_, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

1.All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1995 through November 30, 1995. **FF**DISTRIBUTION LIST

Military Office employees [must get names]

Molly Brostrom

Molly had three main issues: (1) Housing and Homelessness; (2) Veterans; and (3) Seniors/Aging. This is probably a portfolio that will get abandoned in a revamped DPC, but here are the key pieces for following through:

#### Housing/Homelessness

The DPC is responsible for the Interagency Council on the Homeless. The Council was, till 1993, an independent entity with its own funding, designed to ensure interagency coordination and cooperation on homeless issues. When Congress defunded and sunsetted (?) the ICH, we re-created it as a working group of the DPC. This was greatly appreciated by advocates and other agencies. Sec. Cisneros agreed to keep funding it. However, it never really regained its functions, independence, or stature. Molly continues to be the liaison to it, and it continues to meet as a working group at a staff level. Our various efforts to involve either Secretaries or Assistant Secretaries were not fruitful and did not produce any results.

We did succeed in forcing interagency funding of the first-ever National Study of the Characteristics and Needs of the Homeless. The survey is being conducted by the Census Bureau, and should be available soon. Someone should stay on top of this to be sure it does not get buried. The one controversial issue is whether you can derive a count of the homeless from the survey methodology.

Housing Policy DPC has provided a point of entry for housing and homeless advocates to the White House. Through meetings with us, they have felt that at least somebody at the White House was aware of and pressing their concerns with various HUD and OMB proposals. We have had some success in ensuring better communication between the advocates and HUD and OMB. We have not however played any role in the actual development of housing policy. This is a policy area which has received less than its fair share of attention from the White House - and where there are significant issues ranging from affordability of housing for low-income working families to the long-term financial stability of the federally-financed housing stock. I don't think the DPC should abandon this issue. I would recommend maintaining this as a part of someone's issue portfolio.

#### Veterans

The DPC, together with Cabinet Affairs and Public Liaison, started the Interagency Veterans Policy Group in 1994. This represented the first time that the White House had ever pulled together agencies beyond VA to address veterans concerns. We have met several times with the veterans groups, and they seem to appreciate the effort as well. This is definitely an effort that Cabinet Affairs and Public Liaison could continue, and that we could send someone to without playing a coordinating role. There is no question that meetings have to take place early in the New Year to ensure that this continues. It has been a while since there were meetings.

#### Seniors/Aging

The DPC's role in Social Security and other aging issues has been minimal. I assume that any effort to address Social Security will be led by the NEC. Whether to press for a role for DPC is a strategic call for the new DPC leadership.

Dennis Burke/Leanne Shimabakuro

#### Zero Tolerance

This issue is basically done. To quickly summarize, the President endorsed the notion that all states should have laws that forbid people under 21 from driving with any alcohol in their blood. He called for license revocation for all minors caught in violation of this standard. Congress acted and passed such legislation. DOT has issued regs and most states have adopted such laws. We've milked this for about all it's worth. If we never need anything else on this, the person to call at DOT is Phil Recht, 366-2775.

#### Drugs and Driving

Leanne and Dennis have been working with the interagency group developing the report on this topic requested by the President. The report is due in early January, and there should be plenty of follow-up on the topic including potential further Presidential action.

Files:Passed on to Leanne.

#### Mike Cohen

While I was involved in education issues fairly closely for a while, since Mike's arrival, I have been less involved. It is critical for the new Deputy to decide early on whether this is an area they want to focus on, and then deal with the division of responsibility on this issue with the other White House offices.

Two issues I want to flag that I was involved in that perhaps others in the White House did not follow as closely:

■ ■

#### Parental Rights and Responsibilities

This bill never went anywhere in Congress in 96, although it was up for consideration in a number of states. The concept was defeated by referendum in Colorado. It is not clear whether the Right will continue to press this idea or if they will reconsider in light of its failure to move.

The approach we had decided to take to respond if it did move was to have the Dept of Education issue a manual - along the lines of the religious liberty guidance - that would demonstrate how much involvement parents could already have under current law - thereby saying that federal legislation was unnecessary. At the Department of Education, Kevin Sullivan and Terry Peterson have been the point people.

#### Community Schools

The only other issue that I have been engaged in in some significant way is community schools. The idea is keeping schools open in the mornings, evenings, weekends, summers, etc. to provide kids and adults a place to go for all sorts of activities -- answering a number of critical concerns from communities ranging from child care, to tutoring, to adult education. There had been some work in the late summer around a possible Presidential event, and there continues to be interest from Rahm Emanuel.

There may be money in the budget, and there is a manual the Dept of Education could release.

#### Other Education Related Issues

The DPC should remain actively involved obviously in education issues. Among the more important things coming up in the next year:

oWorkforce Reform -- The next go-round on the consolidation of education and training programs needs to be better coordinated with the thinking on welfare reform. The DPC should help to ensure that this conversation is more integral to the broader discussions of local flexibility, community based services and economic development. The task force developing this proposal has tended to be somewhat isolated in the employment training world.

Files:Passed on to Mike Cohen.

Diana Fortuna

Welfare Implementation

Disability Policy

In 1994, the DPC and OMB created the National Disability Policy Review to take a comprehensive, interagency look at policies affecting people with disabilities. The Review set up four working groups: children, transition to adulthood, work, and federal accommodations. Diana has been managing the project since 1995. The children's piece has ended up being mostly a discussion of the appropriate standard for determining childhood disability.

Lyn Hogan

Choice

Partial Birth Abortion -- This issue is very likely to come up again early in the new Congress. DPC had been very active in this issue, raising to the forefront in the White House early. Our central role was a little taken over by others (Todd Stern, Betsy Myers, Elena Kagan), but I recommend DPC being centrally involved in helping to craft a proposal with the Hill to move the President's agenda on this issue forward. Lyn (and others?) may want to call a meeting early in January to establish our agenda and coordinate administration efforts.

RU-486 -- Although FDA approval is nearly complete, I understand that the manufacturer that the Population Council had lined up has run into financial difficulties. We should probably look into this early in the new year and see what next steps HHS is planning if that is the case.

Files: Passed on to Lyn Hogan.

#### International Family Planning

Lyn and I have been coordinating closely with Martha Foley the preparation of a Presidential finding to Congress concerning funding for international family planning.

The finding is due February 1. This is an interagency effort involving State, AID, NSC, OMB, DPC and other White House offices. Lyn and Martha need to bring closure to this work in early January.

Files: Passed on to Lyn Hogan.

#### Women's Issues Generally

Some serious thought should be given to the DPC's role in women's issues. The Women's Office would very much like to take on a "policy" role with someone on staff there to work on women's policy issues. I believe that that role should be within the policy council staff, and that the present role that Lyn plays -- and before that Debbie Fine and Karen Guss -- as liaison to the women's office should be continued. There needs to be some serious discussion once the transition is over between DPC and Betsy Myers about the roles of the two offices.

#### Child Welfare

There is a great deal of work to be done in this area in 1997. Lyn has prepared an excellent outline of a policy agenda that includes legislative, administrative, and p.r. components. This agenda needs to be coordinated with HHS, the First Lady's office and with bipartisan leaders on the Hill.

Next Steps: In early January, DPC should convene a series of strategy meetings to coordinate policy and legislative strategy. HHS has 60 days to report back on steps it recommends taking including legislative changes. Note: In my personal opinion, the most critical element of this plan and the one that will require some pushing from DPC of both OMB and HHS is the issue of subsidized guardianship. This needs to be a priority of the next DPC Deputy because it will take some heavy lifting.

Files: Passed on to Lyn Hogan.

#### Teen Pregnancy

We have had activity in three areas in teen pregnancy:

National Campaign -- The President called for a National Campaign and a national organization has in fact been started. DPC needs to work closely with the campaign to first of all stay informed of its activities but more importantly to find ways for the President to work with them to help build the Campaign -- events, etc.

Dr. Foster -- DPC coordinated Dr. Foster's appointment as a Senior Advisor on Teen

Pregnancy. We are his point of contact with the House and someone (Lyn and Bruce?) should sit down with him to think about his role in the coming year.

**Administration Activity** -- The administration is required to submit a report to Congress on its plan to reduce teen pregnancy in January. There is clearly more the administration could be doing directly in this area, and some thought some be put into what that is around the development of this Plan. Lyn has a great deal of information that was gathered last year to document the range of administration activities around this issue.

Jeanine Smartt

#### Partnerships for Stronger Families

This DPC-led initiative was designed to provide an interagency forum for discussing administrative ways to improve coordinating across agencies to serve children, families and communities. Jeanine has been our lead staff person and is familiar with at least the last six months of history. Jeanne Jehl at IEL has also been actively involved in this effort since its inception, as have various NPR and VP staff. The effort really dates back to a June 1994 conference which brought to DC a collection of model local programs from around the country who were providing integrated, comprehensive services to discuss the barriers they faced in dealing with the federal government.

The effort was structured around five action teams, and the following summarizes key next steps for each:

1. Results -- The first organizing principle of these efforts is that they have to measure outcomes in broad terms, looking at outcomes that don't necessarily measure narrow programmatic facts. So we decided that there was a need for a broad set of national indicators of child and family well-being that would equate with the Index of Leading Economic Indicators for the economic world. An interagency group developed the indicators -- and now we need to release them.

Important Next Step: HHS owes us a memo, which could easily be drafted by WH staff if they do not produce, that lays out for the President the proposal and will hopefully ask whether he would like this to be a high-profile roll-out. Elaine Kamarck is a major proponent of including this in the State of the Union.

2. Information Dissemination -- One of the major accomplishments of the Partnerships project was the creation of a single web page (family.gov) that can be used to access a whole range of information across the government about programs and resources for children and families. There is a lot of creative work that can be done to build on this next year.

Important Next Step: NPR is trying to figure out how to get a staff person who will worry about maintaining the web page. Jeanine and the DPC should continue the action team and expand its mission to further explore the possible ways to technologically link many of the people doing family and children services at the local level.

3. Technical Assistance -- This action team was working on a demonstration of a model for providing more community-driven technical assistance. Elaine is leaning toward a different approach which would look at reforming the procurement process.

4. Financing Flexibility -- Categorical funding programs continue to be the bane of service providers at the local level. My recommendation in this area is the creation of a group to develop a legislative initiative outlined below.

5. Promoting Partnerships -- The work in this group focussed primarily on the structure of federal efforts to better relate to state and local governments. The CEB and NPR are both developing proposals in this area, and this group was focussed on attempting to bring these two efforts together. That was not possible, but the Partnerships effort can still provide a forum for ensuring communication across the various efforts.

#### Flexibility Legislation

Within Jeanine's portfolio, and specifically as part of the Partnerships Project, one of the most significant and difficult issues to be addressed is financing flexibility. Specifically, for children and family services, for youth, for communities, the array of specific categorical federal programs remains overwhelming. Last term, there were two initiatives important to this area:

(1) "Local Flex" legislation would have provided a broad flexibility for combining dollars and getting waivers from the entire spectrum of federal programs. Known as the Hatfield bill, this proposal ultimately died, in my opinion, because it tried to take on too much and generated too much opposition;

(2) The Youth Development Block Grant, pushed primarily by Sen. Kassebaum, but also significantly by ALL the national youth services organizations such as Boys and Girls Clubs, YMCA, etc. This bill did not succeed because it initially tried to incorporate too many politically untouchable items like Safe and Drug Free Schools and Summer Youth Employment. Once those were taken out, there was no money left.

There is a lot of interest in pursuing a flexibility approach that combines the best elements of these two proposals -- perhaps into some form of "Family Flex" or "Youth Flex" legislation. This would limit the range of programs covered by Local Flex and not threaten the existence of particular programs the way a block grant does.

Next Steps: NPR and DPC, working closely with OMB, should convene a working group as soon as possible in the new year, to develop a legislative proposal in this area. Among the interested players: John Koskinnen/Jonathan Breul (OMB), Elaine Kamarck/Nancy Hoit (OVP/NPR), the outside groups that formed the YDBG coalition, Rep. Hoyer staff.

Files: Passed on to Jeanine Smartt.

#### Children's Research Initiative

The Office of Science and Technology Policy (OSTP) has worked over the past year to put together a report that (1) tries to summarize all of the dollars being spent and efforts being made to do research on children within the federal government and (2) makes the case that there needs to be a stronger linkage between research and policy-making within the federal government.

OSTP has felt it critical to have DPC involved in the effort because of that research-policy link. Jeanine, Jeanne Jehl, and I have all attended various meetings and

reviewed various drafts of the report. The report is nearly done, although I have neither reviewed nor approved a final draft. The last contact I had with the group was that they wanted to brief Carol and Jack on the final report. I recommended to Carol and Jill that this be scheduled, but I have not heard anything since. Jeanine has been in touch with the committee putting this together and has helped write various sections.

I believe this is an important effort from a federal policy perspective. There should be a regular way for significant research findings to be brought to the attention of key administration policy makers. A regular DPC meeting would be one such format. A portion of each meeting could be devoted to the presentation of some significant new research finding from one or another of the agencies on the DPC. This is, of course, up to those who run the DPC in the future and how they wish to use interagency meetings.

Files: Jeanine has all relevant information.

#### Connecticut Memorandum of Understanding

In early 1996, the Vice President, Secs Cisneros and Browner, and Carol Rasco signed a memorandum of understanding with the State of Connecticut which relates to the state's program of Neighborhood Revitalization Zones. Much like the Oregon Option, this program is designed to provide federal assistance in helping the state overcome any barriers on the federal government's side in achieving results communities are working towards - particularly in environmental and housing areas. The agreement incorporated the VP's notion of a single point of contact - a HUD employee named Ray Jordan - who the state was supposed to be able to turn to to deal with any issues that arose.

There has been little federal follow-through as neither HUD nor NPR really felt they fully owned the project. So in August, I went to Connecticut and convened a federal workgroup - mostly regional agency folks to meet with Ray and with the state folks. I have been the state's primary point of contact, and Molly had worked with them as well. I think it would be important for Jeanine to continue being in touch with them and for the DPC to ensure that someone is following through on the implementation of this agreement. I don't want it to turn into an embarrassment for the federal government for failing to follow through.

#### Family Friendly Workplace

The Domestic Policy Council along with NPR is receiving reports from all federal agencies on their efforts to comply with the President's memorandum on this topic. Jeanine has been working with Lisa Mallory on this project. There was a federal implementation group led by Faith Wohl out of GSA, which was to take the lead following the VP's Family Reunion last July. I do not know whether further work is required.

#### Fatherhood Initiative

Another project, very similar in background, is the Fatherhood Initiative. Also sparked by a VP Family Reunion and also involving a Presidential Memorandum with NPR/DPC follow-up, Jeanine has been the point person on this project as well. Again, it is unclear what further work DPC needs to do here.

AIDS Office

1. First order of business is obviously personnel and structure. I would recommend that the "office" be folded into the staff of the DPC and moved to the OEOB. The Director and Deputy along with a support person should be the entire office and they should be fully integrated into the working of the White House staff. The office never can be a fully independent power like the drug office. I would strongly recommend that Richard Soriano be considered for the Deputy spot as a detailee. He would provide much needed continuity and institutional history. If he could be brought over as a detailee, he would be able to keep his salary and would be interested.

2. Needle Exchange -- This issue was not addressed squarely during the first term. It is the single highest priority of the AIDS community and the Advisory Council. If we are to address it, it should be early in the second term. Some serious thought needs to be given to this.

3. Other Issues/National Strategy -- I won't provide a complete rundown on all the many issues facing the AIDS office. I hope that Patsy and Jeff will leave detailed and orderly transition memos. The new Director and Deputy should take the Strategy and the Council's recommendations and develop an orderly implementation plan that drives their work for 1997. The groundwork has been laid for the work that needs to be done -- implementation is now the key.

Files: Archived.

Steve Warnath

Immigration/Welfare

The primary work I am doing with Steve right now centers on implementation of the new bills - both welfare and immigration. There are a series of difficult issues that relate to immigration that need to be settled quickly. Steve and Diana are aware of all of them. It is probably important for someone of higher rank than them to start to play a role in the implementation process - preferably a new Deputy soon and/or Bruce. There should be some quick conversations with them about the support that they do or do not need.

Among the immediate products:

- interim guidance from the Department of Justice on verification of citizenship status should be issued by the end of the year.
- the INS is supposed to issue a reg that relates to waiving certain naturalizations requirements for individuals with disability. Again promised by the end of the year. Diana is tracking this too.
- the new affidavit of sponsorship should be completed by the end of the year.
- the definition of means tested benefits needs to be settled.

---

Other Immigration

I have been less involved with the other aspects of Steve's immigration work. We do hold a weekly - biweekly immigration meeting which I would recommend continuing. There are significant issues relating to legal immigration restrictions that could come up in 1997 as well as ongoing work relating to worksite enforcement and verification demonstration programs. I would strongly recommend the new Deputy or Director getting involved to ensure DPC continuity in these issues.

Other Legal/Civil Rights Issues

Steve has attended meetings and been part of work groups on issues ranging from Affirmative Action to English Only. The DPC has not been a central player in any of these issues.

I had minimal involvement in the work of Chris Jennings, Sandy Bublick-Max, Pauline Abernathy/Jennifer Klein, Dennis Burke, Paul Weinstein and Diane Regas.

The only issue that I flag here is that the First Lady's staff (Pauline/Jen and Nicole Rabner) are very involved in child welfare and some of the women's issues. Lyn will need some help in ensuring that the DPC remains the central player on this issues, if that is what the DPC wants!

John D. Bates, Deputy Independent Counsel  
January 9, 1997  
Page 1

January 9, 1997

BY HAND DELIVERY

John D. Bates  
Deputy Independent Counsel  
Office of the Independent Counsel  
1001 Pennsylvania Avenue, N.W.  
Suite 490 North  
Washington, D.C. 20004

Re: Subpoena #D472  
Dear John:

As we discussed, enclosed are recently found documents responsive to subpoena #D472, numbered T6299 - T6877. A production log is enclosed.

The documents, which were contained in two three ring binders, were recently found by Associate Counsel Elena Kagan when she was moving out of her office, on a bookshelf with other materials. Ms. Kagans office was previously occupied by Neil Eggleston, who was working on the travel office matter when he left the White House. Another Associate Counsel, Wendy White, already had searched for Mr. Egglestons documents, including a search of this office for certain travel office notes, but had not seen these binders. When Ms. Kagan found them, she turned the binders over to Ms. White, who in turn gave them to me. As I stated during our telephone conversation, copies of many of these documents have already been produced to your office, but for the sake of completeness we are producing the entire notebooks.

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury.

**PP**

Please feel free to call me if you have any questions.

Sincerely yours,

Sally P. Paxton  
Special Associate Counsel to the President

Enclosures

November 24, 1997

MEMORANDUM FOR SYLVIA MATHEWS  
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.  
JON P. JENNINGS

SUBJECT: Cabinet Affairs Race Initiative Weekly

Department of Treasury

Midwest Trip: On November 16, Secretary Rubin traveled to Detroit to address the Yeshiva Beth Yehuda dinner with Senator and Representative Levin. On November 17, Secretary Rubin traveled to Chicago to address the Mid-America Committee, a group of area business leaders, with Senator Moseley-Braun. At this speech, Secretary Rubin unveiled a comprehensive report on the state of financial services commissioned by Congress in 1994. While in Chicago, Secretary Rubin also spoke to Minority Business Leaders, met with mortgage industry leaders, and held a roundtable discussion with the Runners Club, a group of African American entrepreneurs mentored by business leaders. Under Secretary Kelly and ATF Director Magaw joined Secretary Rubin in Chicago to tour the Illinois State Police Lab where ATF technology is aiding in the identification of guns and munitions used in crimes. On November 18, Secretary Rubin traveled to Minnesota to meet with Vice President Mondale and address the Minnesota Meeting, a group of Minneapolis business leaders.

Presidents Initiative on Race: During his trip to the Midwest on November 17, Secretary Rubin met with Minority Business Leaders and also held a roundtable with the Runners Club, a group of African-American entrepreneurs mentored by business leaders. On November 20-22, the 15th annual national conference to recognize Minority Enterprise Development Week (MED Week) 97 will be held in Washington, DC. MED Week was created in 1983 to recognize and promote the achievements of the nations minority-owned businesses. Treasury plans to have an exhibit booth at the conference and share information about procurement opportunities throughout the Department.

Department of the Interior

Toward One America Initiative -Message and Outreach Activities: The Bureau of Reclamation helped sponsor the Annual Society of Hispanic Professional Engineers West Coast Exposition and Recruitment Fair, in Anaheim, CA. The fair attracted over 600 Hispanic and other university students from across the western and southwestern United States.  
Cabinet Affairs Race Initiative Weekly - page  
United States Department of Agriculture

Pine Ridge Indian Reservation: USDA staff are providing area-wide planning assistance to the Pine Ridge Indian Reservation in South Dakota, the immediate goal being to identify resource issues on the reservation and develop a plan that will allow local people to solve local resource problems.

African American Farmers: In a lawsuit against USDA, 14 plaintiffs are purporting to represent a class of present and former African American farmers who have claims of racial discrimination pending against the Department or whose claims of discrimination were denied by the Department between 1983 and February 1997. The class has not been certified. On November 17, counsel for the government and for the plaintiffs agreed to a 30-day delay in certain procedural matters, including answering plaintiffs complaint, filing the governments motion to dismiss and plaintiffs motion for class certification, while the government determined what procedures it could use under the law, in an attempt to rapidly and properly adjudicate the discrimination complaints of the plaintiffs and if appropriate, conduct settlement discussions.

White House Conference On Hate Crimes: On November 10, Secretary Glickman led a breakout session, with a focus on community responses, at the White House Conference on Hate Crimes.

Hispanic Association Speech: On November 20, Under Secretary for Natural Resources and Environment Jim Lyons spoke at the Hispanic Association of Colleges International Conference on Natural Resources and Cultural Heritage in Phoenix, AZ.

#### Department of Housing and Urban Development

Chicago Race Discrimination Suit: On November 13, Secretary Cuomo joined the Leadership Council of metropolitan Open Communities (LCMCC) to announce settlement of a racial discrimination suit. According to the suit, Phillis Sheppard, an African-American nun and psychologist, and her sister were forced to move from there Northwest Chicago apartment because of racial discrimination. LCMCC is a private fair housing group that receives funds from HUDs Fair Housing Initiatives Program. HUD has pledged to double the number of enforcement actions in housing discrimination cases over the next four years.

Minority Home Ownership: As part of President Clintons One America Initiative, HUD and the National Association of Realtors (NAR) created an historic partnership to help promote equal housing opportunity and increase minority home ownership rates. HUD and NAR will develop training and certification program open to more than 1.5 million real estate professionals across the country. The program will train real estate professionals to implement Fair Housing Act principles and to make housing markets more accessible to traditionally underserved populations, such as racial and ethnic minorities. Although recent gains in minority home ownership are largely responsible for pushing the national rate to an all-time high of 66 percent, only 45.8 percent of African Americans and 43 percent of Hispanics own their own homes - compared with 72.3 percent of whites. This initiative will help advance President Clintons goal of a nation where the door to the American dream is open to all. Real estate professional certified under the program will earn the right to use the new One America logo in advertising and professional materials. The logo is expected to be a valuable marketing tool that will enable home buyers to identify real estate professionals committed to equal housing opportunity. The One America logo will be like a Good Housekeeping Seal of Approval for realtors, said Secretary Cuomo, It will show a clear commitment to equal opportunity in housing. By increasing Home ownership, it will be good for all Americans, good for our economy, and good for the real estate industry.

Human Rights Award: On November 20, Secretary Cuomo presented the 1997 Robert F. Kennedy Human Rights award.

Amplification: On November 15, Secretary Cuomo addressed the National Association of Realtors Conference (NAR) in New Orleans, LA. At a press conference, the Secretary announced a partnership between HUD and the NAR to promote equal housing opportunity and increase minority Home ownership in the spirit of Presidents One America initiative. Coverage Included AP, Baltimore Sun, The Tennessean, The Indianapolis Star, The Dallas Morning News, The Los Angeles Times, Houston Chronicle, Washington Times, Long Island Newsday, The Arizona Republic, Chester County Local News, Chicago Defender, The Buffalo News, Milwaukee Journal Sentinel, The Times Picayune. New Orleans ABC, NBC, ABC.

#### Department of Transportation

Federal Advisory Board Meeting: On November 13, the Department attended a meeting at the NEOB which was hosted by the Presidents Race Initiative Advisory Board staff. Kits on how to lead small round table discussions on race were subsequently distributed to all DOT departmental offices as well as to their staff representatives who serve on DOTs Interdepartmental Working Group on Race Relations in support of the Presidents Initiative. Support for the Presidents request for a national dialogue on race and the Advisory Boards request for senior staff participation in At the Table discussions on race will be addressed at DOTs bi-weekly senior meeting this week.

Roy Wilkins Center: Departmental Office of Civil Rights staff reached out to the Roy Wilkins Center for Human Relations and Social Justice, Humphrey Institute of Public Affairs at the University of Minnesota, to see if they would be interested in submitting a "Promising Practices" form to the President's Race Initiative, for possible inclusion in the Initiative's website and reports. The Center has as one of its missions, "To promote debate and dialogue designed to alter the course of deteriorating race relations and widening inequality."

Action Plan Continues: The FHWA work group on Race Relations met on November 10 and identified 13 day-to-day activities in which Race Relations can be addressed in the Plan. They have agreed to also identify major agency activities and events planned for this fiscal year which are conducive to addressing Race Relations.

Hate Crimes Conference: Secretary Slater participated in the White House Conference on Hate Crimes on November 10 in Washington. The Secretary moderated a breakout session about ways to combat organized hate, including use of the Internet. Some regional and specialty press coverage.

#### Department of Energy

MED Week: On November 21, The Secretary will introduce DOEs Diversity Clause that will require DOE contractors to insure balanced opportunities for workforce development, educational opportunities, community involvement, small business development, and economic development/technology transfer - DOE has put together the first comprehensive agency effort aimed at Federal Government contractors. MED Week brings together over 1,000 minority small business owners - which makes it the Nations largest and most diverse minority business conference. The Secretarys key-note address will follow remarks by SBA Administrator Alvarez, Commerce Deputy Secretary Mallett, and Acting Director Cox of Minority Business Development Agency.

One America Event in San Diego: The Secretary plans to hold a race relations discussion with students at San Diego State University on December 5 to amplify the Presidents Race

Initiative. Staff is working with Professors at SDSU to possibly have the Secretary participate in a class discussion on this issue.

#### Department of Education

One America: Secretary Riley is scheduled to host a "One America: Conversations that Bring us Together" event in Alexandria, VA, on November 24 and, tentatively, in Baltimore on December 11. The Secretary is also tentatively scheduled to attend the Town Hall Meeting in Akron on December 3.

#### Department Of Veterans Affairs

Federal Agency Youth Task Force: On November 17, Sandra A. Barrett, VAs representative to the Federal Agency Youth Task Force, Presidents Initiative on Race, attended the second meeting of the Task Force. The meeting was held in the New Executive Office Building. The purpose of the meeting was to discuss some of the initiatives and events that various Federal Departments and Agencies are planning in support of the Presidents Initiative. The meeting was attended by approximately thirty employees from various Federal Departments and Agencies and staff members from the Executive Office of the President.

National Alliance of Black School Educators Conference: VA will support Historically Black Colleges and Universities (HBCUs) by participating at the National Alliance of Black School Educators Conference in Reno, NV, from November 18 to 23. VA will participate as a panelist with Presidents of HBCUs on a program entitled Federal Agency Outreach Initiatives with HBCUs and Minority Educators. VAs Associated Health Programs and procedures for academic affiliations with minority academic institutions will be discussed.

National Association of Hispanic Federal Executives (HAHFE): On November 20, a Partnership Agreement between VA and the National Association of Hispanic Federal Executives (NAHFE) will be signed during NAHFES Sixth Annual Executive Leadership Development and Diversity Training and Recruitment Conference in Arlington, VA. VA will be represented at the signing ceremony by the Assistant Secretary for Human Resources and Administration. Under the Partnership Agreement, VA and NAHFE will agree to work collaboratively to increase the number of Hispanics in VA at the GS-13 and higher grade levels. The Deputy Assistant Secretary for Equal Opportunity will also participate as a panelist during the NAHFE Conference on a panel entitled Affirmative Action: Will it Survive?

American Indian Science and Engineering Society National Conference: VA will participate in the 19th Annual American Indian Science and Engineering Society National Conference in Houston, TX, from November 20 to 23. VA will participate as an exhibitor and provide information on research, employment, and other opportunities.

#### Environmental Protection Agency

Environmental Briefing for African American Leaders: On November 19, Administrator Browner and other Administration officials meet with 75 African American environmental leaders to discuss the Administrations environmental priorities. Several environmental justice leaders were in attendance and expressed frustration and serious concern about the Administrations commitment to environmental justice. In particular, many attendees expressed concern that they had not been invited to the White House for discussions on environmental issues since President Clinton signed Executive Order 12898 on Environmental

Justice in 1994.

Administrator Browner made it clear that environmental justice remains an Administration priority and discussed several key environmental initiatives affecting the African American community, including the new clean air standards, community right-to-know, Superfund, and childrens health protection. Administrator Browner was also asked about EPAs decision on September 10 regarding the Shintech facility in Convent, LA. Administrator Browner ordered Louisiana to stop issuance of air permits for a proposed Shintech chemical facility because the permits have technical deficiencies which fail to regulate all potential sources of air pollution. These issues must be resolved before the project can move forward. EPA is also conducting an investigation of local citizens civil rights complaint, which alleges that African American residents would be disproportionately impacted by the permitting of the Shintech facility.

#### Small Business Administration

MED Week: The Administrator will speak at and participate in various MED Week activities, including the kickoff reception on November 20 and giving the keynote speech at the business luncheon on November 22. At this luncheon, Kweisi Mfume, President and COO, NAACP, will be receiving the Pioneer ward, and Congressman Albert Wynn will be receiving the Administrators Leadership Award.

The Presidents Initiative on Race: The Deputy Administrator and a number of senior staff are planning to hold At the Table roundtable discussions during the Thanksgiving holiday. Plans are also being considered for the Administrator to convene an At the Table session.

cc:

Bob Nash  
Ron Klain  
Steve Silverman  
Kris Balderston  
Anne McGuire  
Katherine Hubbard  
David Beaubaire  
Elisabeth Steele  
Lisa Levin  
Michele Cavataio  
Andrew Mayock  
Elena Kagan  
Julie Fernandes  
Lin Liu  
Jacinta Ma  
Michael Sorrell  
Tamara Monosoff  
Nelson Reyneri

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	Phone No. (Partial) (2 pages)		P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy ; Extracted Files)

QA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]

MEETING OPTIONS FOR THE COMING WEEK:

Henry Howard, COO of  
BAC International Credit Corporation.

Next Week or Two

We tried to do this January 30 while he was in town. They are calling to arrange the meeting for the next week or two.

Howard met with POTUS months ago. Craig Smith suggested that the follow-up be with you. 7

"BAC Education Finance is large lender of Federal Family Education Loan Program & only Hispanic-owned lender in the program."

Requested by Jonathan Slade of MWW Group

Weissman has more context on this request.

Bob Shireman is getting info on the organization.

Jonathan Slade

or Julie Palmer [REDACTED] PG/b(6)

Charles S. Zimmerman

Tuesday, April 21 (first thing and on) or Wednesday, April 22 (all day) will be in DC. Wants 15 minutes.

His partner Randy Hopper (met w/ Charles Bursons office in VPs office last fall)

Meet to discuss tobacco related matters.

Sally: No substantive reason to meet. Gene could do for personal reasons.

[REDACTED]  
Mr. Hopper home [REDACTED] PG/b(6)

[REDACTED] Monday morning at 1pm.

Michael Posner, Lawyers Committee for Human Rights

Tuesday April 21

We were unable to schedule a meeting with him last week (they only gave us one days notice). Per Sally, we said we would try to meet when he was next in town, Tuesday, April 21.

Meet with Mike Posner

Posner is next in town on April 21, 1998.

Sally: a good time to meet

DO YOU STILL WANT TO MEET WITH HIM IN YOUR OFFICE if you will see him at the AIP Meeting on Tuesday?

Lynn

[REDACTED] PG/b(6)

Monday, April 20

Milwaukee Mayor John Norquist  
Wednesday, April 22 (2-5 pm)  
Thursday, April 23  
(early am)

Mayor Norquist will be in town April 22 (2-5 pm) and 23(early am) and would like to drop by. A brief 10 minute "get acquainted meeting" with no particular topic.

Orson Porter  
[REDACTED]

*PG / b (6)*

Sam Beard, Martha McStein, Max Ritchman  
April 22, 23 or 28  
Sam Beards office called March 17th to set up this meeting.

Kaplan and Peter Orszag have spoken with Sam Beard at length.  
Kaplan and Peter do not think a meeting is necessary.  
They have spoken with Sam Beard at length. McStein and Richman are in the groups you regularly brief.

Nancy [REDACTED]

*PG / b (6)*

Second Presidential Leadership Conference for Presidential Appointees and Nominees  
SATURDAY  
April 25, 1998  
12:45-1:45 pm  
During a luncheon at the State Department.

This is the day of the White House Correspondents Assn dinner.  
Goody Marshall invites you to be a panelist with Maria Echaveste, Elena Kagan, Ann Lewis, Bob Nash and Larry Stein.

Goody writes, "we would like to have strong presence from senior WH staff and think you are ideally suited to talk about working with the White House from the NECs perspective.

Audience: 175 subcabinet and presidential appointees  
The VP addresses the group on the first day of their conference and POTUS may speak to them as well.  
Paul Begala and Kay Casstevens are panelists during the day. Both John Podesta and Sylvia Mathews are making remarks to the Conference.

Sally: not the best use of your time. Since Elena is going, perhaps Sally could go for you.

Goody invited you. They would like an answer Monday.  
Patricia McGinnis

[REDACTED] *PG / b (6)*

Goody 6-2572

Greater Durham (NC) Chamber of Commerce  
Thursday  
April 23, 1998  
10:00-11:00 am  
Indian Treaty Room

10-15 minutes remarks plus  
10 minutes Q&A

Erskine drops by. Carole Parmelee said Erskine wants you to speak to the group for 25 minutes.

Top executives from the Research Triangle Region of North Carolina. 50 Representatives from IMB, Glaxo-Wellcome, NorTel/Northern Telecom, Bell South, Motorola, AT&T, GTE  
Re: Intl Trade

Peter OKeefe  
6-7702

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

QA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

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

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

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

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

RR. Document will be reviewed upon request.

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

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003, memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

QA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**RESTRICTION CODES**

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

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

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

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

RR. Document will be reviewed upon request.

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

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. memo	Phone No. (Partial) (1 page)	5/22/1998	P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]

May 22, 1998

MEMORANDUM FOR THE VICE PRESIDENT

FROM: TOBY DONENFELD

SUBJECT: PHONE CALL TO DR. KESSLER

Dr Kessler can be reached at [REDACTED] or paged at [REDACTED] p6/b(6)

Dr. Kessler called you this morning to discuss tobacco legislation. It is my understanding that he shares many of the same substantive concerns about the McCain bill that Dr. Koop has expressed. Those are: 1) support for a cigarette pack increase to \$1.50; 2) support for strengthening the lookback penalties provision (the Durbin amendment); and 3) elimination of the liability caps (the Gregg amendment). As you recall, the Administration did not weigh in on the first two concerns and opposed the Gregg amendment.

Update on the Status of the McCain bill:

Following the vote yesterday on the Gregg amendment to strip the liability caps from the McCain bill, Senator Phil Gramm offered an amendment to eliminate the so-called marriage tax penalty. The amendment is still being analyzed but it appears that it is for couples making less than \$50,000 a year and would cost an estimated \$11 billion per year. Paying for this provision would essentially eliminate the funds going to public health programs. You may want to tell Dr. Kessler how dangerous this amendment could be for the public health funding we have in the McCain bill now.

According to Elena Kagan, Senator Daschle was going to call for an immediate vote on the Gramm amendment, until he realized that he did not have the votes to kill the amendment. This tax cut may have appeal to Democrats because it is focused on lower income people and many Members of Congress have been sensitive to the many criticisms this week about the regressive nature of the tobacco tax increase and its effect on lower-income people.

Erskine Bowles and Bruce Reed are meeting with Senator Lott this morning to negotiate how to proceed on the tobacco legislation when the Senate returns on June 1. It is our understanding that the McCain bill will again be on the Senate floor when the Senate returns.

The LEAF Act

You may want to ask Dr. Kessler for his support for the Hollings/Ford LEAF Act over the Lugar proposal. In your efforts to gain support for the Hollings/Ford proposal, yesterday you met with Senators Lautenberg, Leahy, Durbin and Conrad.

Attachments

Attached is an internal transcript of the Presidents interview yesterday with USA Today on tobacco.

☐☐

THE WHITE HOUSE

Office of the Press Secretary

---

Internal Transcript

May 21, 1998

INTERVIEW OF THE PRESIDENT  
BY USA TODAY

The Oval Office

12:15 P.M. EDT

Q We appreciate you sitting down with us. We'd like to talk about the tobacco bill, and then about China.

On the tobacco bill, the Senate is debating the McCain proposal, but slowly, and I wonder what your reading is on the bill's prospects, and also what you think the Senate ought to do on it.

THE PRESIDENT: Well, I think the Senate ought to pass it. I think the most important message I have is that they still ought to make every effort in the Senate to act on the McCain bill this week, but if they can't do it before they break, then it should be the first order of business when they come back. And if it is, we'll work through it, we'll pass a good bill, and then we'll send it on to the House of Representatives.

But the Senate is the key here. If they pass a good, strong bill, I think the House will have to act.

Q Now, there's this Gregg amendment up today that would lift the liability cap, which the White House has opposed the amendment.

THE PRESIDENT: Yes.

Q Do you think that by keeping the liability cap provision there you can entice the industry to come back and be a part of this settlement, this deal?

THE PRESIDENT: Well, I think two things about the Gregg amendment. First of all, I think that that may well be right, that they might come back and be a part of it. And I've always said I thought it would be better if they were a part of it for the simple reason that a big part of our strategy is stopping them from advertising to children in the first place -- and it becomes much, much more difficult if they're not a part of the settlement, because then they can challenge all this in court, they can spend hundreds of millions of dollars on lawyers fees, they can say, well, no matter how much money we lost in Florida or Texas or Mississippi or Minnesota, if we drag this thing out state by state, we may still never lose as much as we're going to lose in the settlement, and so we'll just spot it.

And so I think that that's one reason, the main reason, I think they ought to

be in it. But secondly, the way the McCain bill is now written with the liability cap, it's actually an effective stick because it says to the tobacco companies, you can only get this liability cap -- which is very high anyway, and they can still get socked with a lot of lawsuits -- it says, you can only get this if you are successful in reducing teen smoking. So that it's a huge encouragement. It's not some sort of a great gift to them; in effect, it's a stick, but it does say to them, if you play by the rules, if you do everything you can and if you get the results, then there will at least be this aggregate cap, so you know you're not going to go totally bankrupt.

Q Some of the Democrats on the Hill and some people in the public health community are unhappy with the White House for not fighting for \$1.50 increase instead of \$1.10, and for opposing the Gregg amendment. But I wonder if you want a bill that is still enticing or appealing enough to the industry to get them back. Is that your strategy here?

THE PRESIDENT: No -- well, on the \$1.50 let me just say, in my original bill we had \$1.10, and we had real protections to stop the black market in cigarettes, and we had a bill that we believe will reduce teen smoking by more than half over the next five years, so it meets our objectives. Our objectives are not to bankrupt the tobacco companies or to run any greater risk of a black market. Our objectives can be met within the money now reached.

If you look at how much money we raise, which is reflected in this McCain-Hollings bill, it's considerably more than was in the original settlement. So that's -- I just thought that -- I have said all along that I didn't want to use the tobacco companies -- cigarettes as a cash cow, I wanted to raise the price enough to deter smoking and to raise the money we need to do the medical research through health programs, and to make sure we had a system that would cut down on the black marketing. I think we have achieved that. So that's why I stuck with that position.

I've got to -- the public health community I think, when they look at this -- this bill is so much stronger in every conceivable way than the original proposal, and it meets my standards and the principles I laid out, except it's not yet resolved what's going to happen to the tobacco farmers and their communities.

Q I know Bill wants to ask about that, but just one last question on this. The industry walked away from this deal quite angrily. Do you want to call on them to come back to the table and be a part of it now?

THE PRESIDENT: I think they should come back, but whether they do or not, this is the bill I think we ought to pass. And then they can make up their own minds. But I would think if this actually passes the Senate -- it's a good, strong bill with a liability cap -- then I think they're going to have to think long and hard about whether they want to come back or not, and I think a lot of them will do so.

Keep in mind, if they can come into this framework and operate within it, they can show good faith to the American people, they can continue to operate, they can go on about their business, but they will have to make an aggressive effort to deal with the biggest public health problem in America today. If they don't do it, there are costs in that, too. They will have to face all these other lawsuits, they have all these pending

lawsuits that will be unsettled. And they will, in effect, be saying to the American people, we're going to keep advertising to children.

So I think they -- I think once they see the outlines of where we're going I think there will be some incentive for them to come back into this.

Q So you pass this bill, the industry might come back?

THE PRESIDENT: They might, they might not. But the main thing is it's a good bill on its own merits. But it would be better if they came back. It would be better if they were a part of it, because then we would have resolved the advertising issue, the promotion of cigarettes to children issue.

Q On the farmers issue, Mr. President, is the Lugar amendment going to kill this bill for you? I mean, is that going to prompt a veto from you if it stays in?

THE PRESIDENT: Well, I hope we can get some changes there. Of course, right now they're talking about putting the Lugar proposal and Senator Ford's proposal up there together, then letting the Senate vote on whichever one.

I have a lot of respect for Senator Lugar. What he says is, look, this is just a quick buy-out and it gets the government out of controlling the amount of the tobacco crop, and it's consistent with the Freedom To Farm Act, what they did with agriculture generally a couple of years ago. That's his position. And theoretically, it has a lot of appeal. But there are a lot of practical problems with it and I'd like to say what I think they are, first of all.

As compared with Senator Ford's approach, the Lugar bill essentially helps the big producers and the tobacco companies, as compared with the little tobacco farmers and the tobacco communities. To me, that's the most important thing. Secondly -- and I think this is very important -- if you get the -- (inaudible) -- system out of it, you know, and you get the government out of it entirely in terms of trying to control the crop, I think the effect of this is going to be to lower the price of tobacco and to lower the cost to the companies so that the price of cigarettes will not go up as much as it's planned to go up under this bill, which means the that whole strategy will be weakened. So for those two reasons, I don't think the Lugar bill is as good as the Ford bill. There may be some other way of doing it, some compromise.

One third thing I'd like to point out is that the Lugar bill is such a quick buy-out -- it's a quicker buy-out than the Ford bill is -- that in the early years, the first three years, it cuts ways down on the money that will go into medical research, which, again, I think is a mistake. I think that the -- if you look at that McCain-Hollings bill now, we've got money in there for clinical trials in cancer, a lot of money in there for medical research, a lot of money in there for children's health. I just think that we shouldn't erode that commitment over the next two or three years when you can string it out a little more and you can still have a very aggressive medical commitment.

So those are basically the three things that I'm concerned about with the Lugar approach.

Q Could you sign a bill that had the Lugar approach in it as it's written now?

THE PRESIDENT: Well, what I want to know is that -- the promise I made was to try to protect the tobacco farmers, their families and their communities. Now, there is some movement within the communities; I understand in North Carolina some of the Farm Bureau people wound up actually saying they liked the Lugar bill better, but I think that's because of a complicated issue about different kinds of tobacco that are farmed.

So I have real problems with it. I think we need some changes. But there may be some way of finding it -- there may be an option other than just either the Lugar bill or the Ford bill. And I'm going to keep working for it. But I can tell you I'm just very concerned about the Lugar bill because of those three things I said.

Q Do you think the Republican leadership is in any way trying to use the Lugar provision as a poison pill for this legislation?

THE PRESIDENT: No, I really don't. I think Senator Lott has operated in good faith. He's taken some heat from his people, just like I'm taking some heat from ours. If you try to get together and fashion a principled compromise in an area that has as much emotion, as many lives and as much money at stake as this one does, you're going to have heat and you're going to have -- tempers will flare and nerves will fray and suspicions will fly.

But so far I would have to say that I have not been -- I don't think I've been subject to any poison pills or any parliamentary games in this in the Senate, as far as I'm aware. I think Senator Lott has played it straight with me. I believe Dick Lugar really believes that his bill is a better bill. I believe that some Republicans philosophically believe that they ought to treat tobacco like all other crops, like they did in Freedom To Farm.

I believe that -- there may be some that want to help the tobacco companies and the big farmers more than they want to help the little farmers in the tobacco communities, depending on where they think the votes are in their state. There may be some members of the Senate, some members of Senator Lott's caucus, for example, that want to vote against the bill -- or they want to kill the bill without having to vote against it. So maybe that's why they're trying to run this thing out because they know I don't like it. But I think that the leadership, I think Trent Lott really wants a good bill.

Q Do you think in the House and the Senate that the bill can attract enough Republican votes, even given the amount of tobacco industry money that goes into Republican districts? And to follow on that, do you feel that the DSCC and the DCCC should continue to take tobacco money since the DNC doesn't?

THE PRESIDENT: Well, the DNC doesn't because that was, in effect, a decision that I could influence and I feel very strongly about it. Some of the members of the DSCC and the DCCC represent tobacco growing areas and they think that they should continue to take it. I think that's a decision for them. But I think the burdens are even heavier on those who accept this money to vote for a principled bill. That's what I think.

Now, I believe, once we get through this last set of amendments, I believe

that when that bill is on the floor for final passage, no matter how much tobacco money the members take -- and they're going to have to think long and hard about voting against it -- and I believe that if we can send a strong bill from the Senate to the House they're going to have to think long and hard about not passing it this session. I think the public scrutiny will intensify. I think the press scrutiny will intensify. And I think that --you've got 1,000 kids' lives a day on the line -- the chance to save a million lives over the next five years. I don't think there's any doubt that as that becomes clearer, as it was out here yesterday at our event, that we've got a good chance to pass it.

Q If you don't get a bill -- and it's possible on a big complicated issue like this, you don't get a bill -- do you get a political issue, a powerful political issue for the midterms?

THE PRESIDENT: I don't want a political issue. There will be one inevitably, especially after all this advertising the tobacco companies have done, and all the evidence that's come up now that we have about how much they basically misled the American people over 30 years about what they knew about the addictive qualities of tobacco and what they were doing to market to children.

But I don't want a political issue. I want it done. I want it over with. I want it behind us. I want us to be able to say that we still have our fights, we still have our disagreements -- we're going to have big arguments in the fall election about education and whatever, these things where we have differences of opinion. But at least we saved 1,000 kids a day, the lives of 1,000 kids a day.

To be perfectly accurate, we think the plan will save slightly more than half, it will cut teen smoking by slightly more than half over the next five years. That's about a million lives.

That's important. That's what I want to be able to say.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy ; Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]

\*

May 26, 1998

#### WELFARE TO WORK EVENT

DATE: May 27, 1998  
LOCATION: East Room  
BRIEFING TIME: 11:30 am  
EVENT TIME: 11:45 am (Roosevelt Room Meeting)  
12:25 pm (East Room Event) .  
FROM: Bruce Reed

#### I. PURPOSE

To demonstrate your leadership in reforming the welfare system by announcing: (1) the accomplishments of the Welfare to Work Partnership in its first year; (2) a new decrease in welfare caseload numbers; (3) the first round of Department of Labor Welfare-to-Work Competitive Grants.

#### II. BACKGROUND

This event will celebrate the one-year anniversary of the Welfare to Work Partnership. You will announce that the Partnership has grown from 105 to 5,000 companies since it was launched at the White House last May and that its member companies hired over 135,000 welfare recipients in 1997. You will also announce dramatic new caseload reduction figures, showing that over five million people have come off the welfare rolls since you took office and over three million since you signed welfare reform into law. Finally, you will announce the first Welfare-to-Work competitive grants and highlight Congressional action on your welfare-to-work transportation proposal.

#### Welfare to Work Partnership Success

On May 20, 1997, 105 company executives joined you at the White House to launch the Welfare to Work Partnership. One year later, 5,000 businesses of all sizes from all 50 states have joined the Partnership and pledged to hire and retain welfare recipients without displacing current employees. In 1997, the Partnership's business partners hired 135,000 welfare recipients, and today you will challenge those companies to double their efforts by hiring 270,000 workers from the welfare rolls in 1998.

#### Record Welfare Caseloads Declines

You will announce new figures showing welfare caseloads have fallen to 8.9 million, a record drop of 3.3 million since you signed welfare reform into law and 5.2 million since you first took office. The welfare rolls have declined by 37 percent since January 1993, when they stood at 14.1 million, and by 27 percent since their August 1996 level of 12.2 million. The percentage of the U.S. population on welfare is at its lowest since 1969 -- 3.3 percent. The latest data from the Census Bureau's Current Population Survey show that

1.7 million adults on welfare in 1996 were working in March 1997, an increase of 20 percent over the previous year.

#### First Welfare to Work Competitive Grants

You will announce the first round of competitive grants from the \$3 billion Welfare-to-Work program you fought for in the Balanced Budget Act of 1997. The \$186 million in grants from the Department of Labor will support 49 innovative welfare-to-work efforts designed to move long term welfare recipients into lasting, unsubsidized jobs. These awards are the first of five rounds of competitive grants to be awarded in 1998 and 1999. Twenty five percent of the Balanced Budget Act's \$3 billion welfare to work funds are to be awarded on a competitive basis, with the remaining 75 percent to be allocated by formula to states to be used by local Private Industry Councils to help welfare recipients who have significant barriers to employment obtain and retain jobs.

#### Funding of Welfare-to-Work Transportation Proposal

You will praise the Congress for including your welfare-to-work transportation proposal in the ISTEA transportation bill which passed the Congress on Friday. The proposal will provide up to \$150 million a year for local efforts to help welfare recipients get to where the jobs are.

Attending this event will be: over 100 executives of small, medium, and large companies who belong to the Welfare to Work Partnership, former welfare recipients who are now successful employees, and some of the local organizations receiving the new Welfare-to-Work grants.

### III. PARTICIPANTS

#### Briefing Participants:

Erskine Bowles  
Bruce Reed or Elena Kagan  
Andrea Kane

#### Roosevelt Room Meeting Participants:

Secretary Shalala  
Secretary Herman  
Erskine Bowles  
Bruce Reed  
Eli Segal, President of the Welfare to Work Partnership  
Welfare to Work Partnership Board of Directors (\*SEE ATTACHED LIST)

#### East Room Event Participants:

Eli Segal, President of the Welfare to Work Partnership  
Jerry Greenwald, CEO of United Airlines and Chairman of the Welfare to Work Partnership.  
Rhonda Costa, former welfare recipient who currently works as an Administrative Assistant at Salomon Smith Barney. Rhonda is featured in one of the Welfare to Work Partnerships PSAs and will be introducing you at this event.

[Rhonda received public assistance for one year following the birth of her first child in 1983, and again after the birth of her second child in 1994. Determined to get off welfare, in July 1996 she enrolled in a job training program at the Wildcat Service Corp., which lead her to an internship at Salomon Smith Barney. She was quickly hired and has been working there for 1 years. She earns [REDACTED] per year with full benefits and stock PG/b(6)

options. She has moved her family from New York City to Irvington, New Jersey, so that her two daughters could attend better schools and live in a safer neighborhood.]

#### IV. PRESS PLAN

Roosevelt Room Meeting -- CLOSED PRESS  
East Room Event -- OPEN PRESS

#### V. SEQUENCE OF EVENTS

Meeting with the Welfare to Work Partnership Board of Directors in Roosevelt Room

- You will briefly greet each of the meeting participants.
- You will briefly thank the Partnership Board for coming and invite Eli Segal to lead the discussion.
- Eli will make brief remarks, and will open up the conversation. He will call on three Partnership Board Members to speak.
- You will have an opportunity to respond to each speaker and then Eli will close the meeting.

East Room Event

- You will be announced into the room accompanied by Eli Segal, Jerry Greenwald, and Rhonda Costa.
- Eli Segal will make remarks and introduce Jerry Greenwald, CEO, United Airlines.
- Jerry Greenwald will make remarks and introduce former welfare recipient Rhonda Costa.
- Rhonda Costa will make remarks and introduce you.
- You will make remarks, work a ropeline, and then depart.

#### VI. REMARKS

Talking Points for Roosevelt Room meeting attached.  
Remarks for East Room provided by Speechwriting.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]

May 26, 1998

WELFARE TO WORK EVENT

DATE: May 27, 1998  
LOCATION: East Room  
BRIEFING TIME: 11:30 am  
EVENT TIME: 11:45 am (Roosevelt Room Meeting)  
12:25 pm (East Room Event)  
FROM: Bruce Reed

I. PURPOSE

To demonstrate your leadership in reforming the welfare system by announcing: (1) the accomplishments of the Welfare to Work Partnership in its first year; (2) a new decrease in welfare caseload numbers; (3) the first round of Department of Labor Welfare-to-Work Competitive Grants.

II. BACKGROUND

This event will celebrate the one-year anniversary of the Welfare to Work Partnership. You will announce that the Partnership has grown from 105 to 5,000 companies since it was launched at the White House last May and that its member companies hired over 135,000 welfare recipients in 1997. You will also announce dramatic new caseload reduction figures, showing that over five million people have come off the welfare rolls since you took office and over three million since you signed welfare reform into law. Finally, you will announce the first Welfare-to-Work competitive grants and highlight Congressional action on your welfare-to-work transportation proposal.

Welfare to Work Partnership Success

On May 20, 1997, 105 company executives joined you at the White House to launch the Welfare to Work Partnership. One year later, 5,000 businesses of all sizes from all 50 states have joined the Partnership and pledged to hire and retain welfare recipients without displacing current employees. In 1997, the Partnership's business partners hired 135,000 welfare recipients, and today you will challenge those companies to double their efforts by hiring 270,000 workers from the welfare rolls in 1998.

Record Welfare Caseloads Declines

You will announce new figures showing welfare caseloads have fallen to 8.9 million, a record drop of 3.3 million since you signed welfare reform into law and 5.2 million since you first took office. The welfare rolls have declined by 37 percent since January 1993, when they stood at 14.1 million, and by 27 percent since their August 1996 level of 12.2 million. The percentage of the U.S. population on welfare is at its lowest since 1969 -- 3.3 percent. The latest data from the Census Bureau's Current Population Survey show that

working there for 1 years. She earns [REDACTED] per year with full benefits and stock options. She has moved her family from New York City to Irvington, New Jersey, so that her two daughters could attend better schools and live in a safer neighborhood.] *P6/b(6)*

#### IV. PRESS PLAN

Roosevelt Room Meeting -- CLOSED PRESS

East Room Event -- OPEN PRESS

#### V. SEQUENCE OF EVENTS

Meeting with the Welfare to Work Partnership Board of Directors in Roosevelt Room

- You will briefly greet each of the meeting participants.
- You will briefly thank the Partnership Board for coming and invite Eli Segal to lead the discussion.
- Eli will make brief remarks, and will open up the conversation. He will call on three Partnership Board Members to speak.
- You will have an opportunity to respond to each speaker and then Eli will close the meeting.

East Room Event

- You will be announced into the room accompanied by Eli Segal, Jerry Greenwald, and Rhonda Costa.
- Eli Segal will make remarks and introduce Jerry Greenwald, CEO, United Airlines.
- Jerry Greenwald will make remarks and introduce former welfare recipient Rhonda Costa.
- Rhonda Costa will make remarks and introduce you.
- You will make remarks, work a ropeline, and then depart.

#### VI. REMARKS

Talking Points for Roosevelt Room meeting attached.

Remarks for East Room provided by Speechwriting.

1.7 million adults on welfare in 1996 were working in March 1997, an increase of 20 percent over the previous year.

#### First Welfare to Work Competitive Grants

You will announce the first round of competitive grants from the \$3 billion Welfare-to-Work program you fought for in the Balanced Budget Act of 1997. The \$186 million in grants from the Department of Labor will support 49 innovative welfare-to-work efforts designed to move long term welfare recipients into lasting, unsubsidized jobs. These awards are the first of five rounds of competitive grants to be awarded in 1998 and 1999. Twenty five percent of the Balanced Budget Act's \$3 billion welfare to work funds are to be awarded on a competitive basis, with the remaining 75 percent to be allocated by formula to states to be used by local Private Industry Councils to help welfare recipients who have significant barriers to employment obtain and retain jobs.

#### Funding of Welfare-to-Work Transportation Proposal

You will praise the Congress for including your welfare-to-work transportation proposal in the ISTEA transportation bill which passed the Congress on Friday. The proposal will provide up to \$150 million a year for local efforts to help welfare recipients get to where the jobs are.

Attending this event will be: over 100 executives of small, medium, and large companies who belong to the Welfare to Work Partnership, former welfare recipients who are now successful employees, and some of the local organizations receiving the new Welfare-to-Work grants.

### III. PARTICIPANTS

#### Briefing Participants:

Erskine Bowles  
Bruce Reed or Elena Kagan  
Andrea Kane

#### Roosevelt Room Meeting Participants:

Secretary Shalala  
Secretary Herman  
Administrator Alvarez  
Erskine Bowles  
Bruce Reed  
Eli Segal, President of the Welfare to Work Partnership  
Welfare to Work Partnership Board of Directors (\*SEE ATTACHED LIST)

#### East Room Event Participants:

Eli Segal, President of the Welfare to Work Partnership  
Jerry Greenwald, CEO of United Airlines and Chairman of the Welfare to Work Partnership.  
Rhonda Costa, former welfare recipient who currently works as an Administrative Assistant at Salomon Smith Barney. Rhonda is featured in one of the Welfare to Work Partnerships PSAs and will be introducing you at this event.  
[Rhonda received public assistance for one year following the birth of her first child in 1983, and again after the birth of her second child in 1994. Determined to get off welfare, in July 1996 she enrolled in a job training program at the Wildcat Service Corp., which lead her to an internship at Salomon Smith Barney. She was quickly hired and has been

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. memo	Personal (Partial) (1 page)	12/4/1997	P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]

\*\*0.i:\data\race\memos\weekly\120597.wpd

December 4, 1997

MEMORANDUM FOR SYLVIA MATHEWS  
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.  
JON P. JENNINGS

SUBJECT: Cabinet Affairs Race Initiative Weekly

Department of Treasury

On November 28, the Treasury Department issued a release on a One America roundtable conversation on race. The roundtable was hosted by Alex Rodriguez, Deputy Assistant Secretary for Administration, in Boston. The release went out to both the national and regional media markets. A copy of the release is attached.

Department of Justice

40th Anniversary of the Civil Rights Division: The Department is attempting to hold an event commemorating the 40th Anniversary of the Civil Rights Division. Either the Attorney General or the Deputy Attorney General will speak about the success of the Division and the need for an Assistant Attorney General.

Department of Interior:

Air Field that Launched Tuskegee Airmen Studied for Inclusion in NPS: The NPS Southeast Region is conducting a study of Moton Field --the small Tuskegee, AL airport that served as a training base for the black Tuskegee Airmen of World War II fame --to determine whether the site should become part of the national park system. The study is being funded by a \$75,000 grant from AL Department of Economic and Community Affairs. Moton Field could potentially come under NPS management as a separate park unit or as part of Tuskegee Institute National Historic Site.

United States Department of Agriculture

Presidents Initiative On Race: On Dec. 8, Secretary Glickman will address the Professional Agricultural Workers Conference a forum in Tuskegee, AL where participants discuss improving the quality of rural life for people in the South. Hosted by Tuskegee University and supported by the University, 1890 Land Grant Institutions, other organizations and USDA agencies, this years conference theme is "Access and Equality Issues in Policies and Programs for Agriculture and Rural Development." Other USDA employees are scheduled to participate in the conference.

Sam Thornton has been named by Secretary Glickman as Director of the Office of Outreach, with a staff of eight.

In response to the Presidents One America initiative on race, Under Secretary for Food, Nutrition, and Consumer Services Shirley Watkins began her Food and Nutrition Service-District of Columbia initiative to Reach Out to the African-American Community. As part of this project, Consumer Advisor Joyce Willis met with Washington ministers on Nov. 24 on the plan, "Do It Here First: How Churches Can Make Food and Consumer Service Programs Available To The Community." Future plans include meeting with the Under Secretary, and an all-day educational seminar for ministers interested in participating in the plan.

On Dec. 10-11, Acting Assistant Secretary Reed will speak at the National Organization of Professional Black Natural Resources Conservation Service employees training conference in Atlanta, GA.

On Dec. 12, Under Secretary Lyons will speak at the National Organization of Professional Black Natural Resources Conservation Employees training conference in Atlanta, GA

Presidents Race Reconciliation Initiative: On Dec. 1, Secretary Glickman discussed civil rights in an interview with Knight Ridder.

#### Department of Labor

On December 4, Secretary Herman will attend and be honored at the 13th Annual New York AFL-CIO Labor Recognition Dinner in New York, NY.

On December 9, Secretary Herman will address the National Council of Negro Women in Washington, DC.

#### Department of Housing and Urban Development:

HUD Continues Fight Against Housing Discrimination On November 25th, Secretary Cuomo continued HUDs fight against housing discrimination by announcing charges against the owners and managers of an apartment complex in Richmond, VA, who are refusing to rent to African-Americans. A HUD investigation found several white tenants who said that the on-site apartment manager, [REDACTED], boasted to white tenants that she would not rent to African-Americans. The manager no longer works at the 160-unit Wedgewood Village Apartments. One white tenant said [REDACTED] ordered her to tell her son to stop bringing black friends to visit him at Wedgewood. Another white tenant who provided childcare in her apartment said [REDACTED] told her to refuse to care for black children. "Housing discrimination is an ugly part of Americas past that has no place in our present or future. Its outrageous, its illegal and its intolerable," Secretary Cuomo said. PG/b(6)

HUD filed civil charges against Lewis, the apartment management company, and the owners of the apartments, alleging violations of the Fair Housing Act for discriminating against prospective black tenants. In addition, HUD issued an order barring Lewis from employment by any company that receives HUD housing assistance for one year.

The action is part of a nationwide crackdown on housing discrimination ordered by President Clinton on September 30th.

#### Department of Transportation:

Miami, Florida: On December 1, Secretary Slater traveled to Miami, FL to participate in a

round table dialogue on the Presidents race relations initiative. The round table discussion was attended by over 65 business and community leaders and received considerable national media coverage.

The Department has eight commitments from Senior staff to lead small round table discussions on race over the next few weeks. Several staff persons attended training at the New Executive Office Building on November 24. Secretary Slater moderated a discussion with corporate executives on Dec. 1 in Miami to explore the economic value of diversity, sharing "best practices" in a racially diverse workforce, building relationships between large corporate and minority businesses and the impact of corporate leadership in the community.

FRA Update: FRA has incorporated an internal reporting system, in order to insure that all efforts toward the One America concept are recognized and fully implemented. In this internal reporting system, all Associate Administrators and the Chief Counsel, have been asked to submit the name of an employee in each functional area who will serve as the contact person for weekly reporting of race relations items. In addition, the Office of Civil Rights will initiate programs designed to promote constructive dialogue within the FRA and to unite individuals along a path to improve internal race relations.

Coast Guard Update: On 19 November, the first of two award ceremonies was held recognizing selected Coast Guard units for their participation in the Coast Guard Partnership in Education 2000 Program. Outstanding unit achievement in this program is recognized each year. The program, started in 1991, is one of the Coast Guard's formal steps to achieving a more diverse workforce by reaching out to women and to minority communities. It is designed to enhance educational opportunities and career awareness for the Nation's youth regardless of their ethnic and racial backgrounds and genders, as well as giving them exposure to positive Coast Guard role models both on the job and in the classroom.

Minority Educational Institutions (MEIs): On December 1, OSDBU signed Cooperative Agreements with 5 Hispanic Serving Institutions to provide training to small, women-owned and Disadvantaged Business Enterprises (S/DBEs) in the use of and access to Electronic Commerce and Internet business use. Under the Agreement, each MEI will also receive funding for transportation-related student internships and to provide information dissemination and outreach activities regarding the Presidential initiative to hire individuals off the welfare rolls and the DOT Garrett A. Morgan Technology and Transportation Futures Program. As of December 1, OSDBU has Cooperative Agreements with 14 MEIs, including 8 HBCUs, totaling \$880,000.

December 10, 1997: FTA Administrator Linton will address the Annual Legislative Conference of the National Black Caucus of State Legislators in Milwaukee, WI.

Race Relations: On November 24, Secretary Slater participated in a press conference by the Leadership Conference on Civil Rights. He joined government, civic and corporate leaders to launch its new website to help combat hate crimes.

Department of Energy

Secretary Pea to Host "One America" Event in San Diego: The Secretary will hold a race relations discussion with students at San Diego State Universitys Aztec Center on Friday,

December 5, to amplify the Presidents message under the Race Initiative. Secretary Pea will host a dialogue with 20-25 students as part of the "One America: Conversations that Bring Us Together" national effort of encouraging dialogue on race and diversity. The roundtable will also be observed by an audience of approximately 100 college and high school students.

#### Department of Education:

Hispanic Dropout Rates: DOEd is planning the release of a Congressionally-mandated report on dropout rates among Hispanic Americans for mid-December. Secretary Riley, Congressman Hinojosa, and Senator Bingaman probably will participate in the release. Hispanic Americans have very high high school dropout rates compared to other ethnic groups.

One America: Secretary Riley is scheduled to host a "One America: Conversations that Bring us Together" event in Baltimore on December 11.

White House Race Initiative: The Secretary interviewed with USA Today at the White Houses request for a story that ran Monday announcing the beginning of the at-the-table discussions. Riley held first of several Administration official-led sessions. Leslie Thornton held a race round table in Philadelphia as well.

Race Town Hall: The Secretary will travel to Akron, OH to participate in the Race Town Hall with the President. He will be available to reporters as needed.

At the Table Discussion: ED promoted agency officials at-the-table discussions by issuing news advisories, releases and making calls to local reporters. Fox News in Philadelphia covered one and the Philadelphia Inquirer plans to cover another.

#### Department of Veterans Affairs

Presidents Initiative on Race. On December 3, the Assistant Secretary for Human Resources and Administration will host VAs first dialogue on race. The Assistant Secretary has invited 11 members of the public, representing a cross-section of our racially and ethnically diverse society, to gather in VAs Omar Bradley Conference Room. They will offer their responses to a series of questions offered by the White House initiative staff for discussion, and they will provide insight based on their views and personal experiences. Their insights will be conveyed to the White House for consideration in developing further plans for the Initiative on Race and in formulating national policy on this important issue. We expect that the December 3 event will be the first in a series of discussions hosted by VA officials under the program of "One America: Conversations That Bring Us Together."

#### Small Business Administration

The Presidents Initiative on Race: The Administrator, Deputy Administrator, General Counsel and other SBA staff have held or are planning to hold "At the Table" roundtable discussions.

#### Office of Personnel Management

Planning is underway for Director Lachance to participate in a series of events to include a town meeting discussion on race in mid-December in Pennsylvania. Details will be in next

weeks report..

United States Information Agency

U.S. Civic Education Text Incorporated in Jordan University Human Rights/Democracy Course: To address the lack of a civic education component in the Jordanian educational system, USIS hosted a three-day program, November 17-19, 1997, by U.S. speaker Dr. Margaret Branson, director of the Civic Education Center in California. During her meetings with senior educators at the Ministry of Education and Jordanian universities, she drew the distinction between national education as currently represented in the Jordanian curriculum with its emphasis on political institutions, and civic education, highlighting issues of democracy and human rights. As a result of her program, Jordan University will incorporate American civic education materials in a required university course on democracy and human rights.

Congo-Kinshasa Bans VOA and Other International Broadcasters: VOA has been forced off the air in Kinshasa on orders of the Democratic Republic of Congo's Information Minister Raphael Ghenda. Local FM transmissions of Voice of America, the BBC and Radio France International fell silent following Ghenda's announcement November 30 banning the transmissions.

Social Security Administration

On December 8 -9, Commissioner Apfel will be in Seattle, WA where he will visit SSA's regional and local offices and meet with the editorial board of the Seattle Post-Intelligencer. Also, as part of the President's Racial Reconciliation Initiative, the Commissioner will visit an Asian community resource center for a "One America" conversation with 16 multi-ethnic community leaders in the Seattle area.

cc:

Bob Nash  
Ron Klain  
Steve Silverman  
Kris Balderston  
Anne McGuire  
Katherine Hubbard  
David Beaubaire  
Elisabeth Steele  
Lisa Levin  
Michele Cavataio  
Andrew Mayock  
Elena Kagan  
Julie Fernandes  
Lin Liu  
Jacinta Ma  
Michael Sorrell

Tamara Monosoff

Nelson Reyneri

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. memo	From Ron Klain to Vice President Gore (4 pages)	5/19/1996	P2, P5, P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy ; Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**RESTRICTION CODES**

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

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

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

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

RR. Document will be reviewed upon request.

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

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
009. chronology	Chronology of Whitewater productions (3 pages)	4/1996	P5

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

QA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

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

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

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

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

RR. Document will be reviewed upon request.

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

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
010. memo	From Walker Bass to Bob Nash, re: personnel (2 pages)	3/10/1998	P2, P6/b(6)

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**RESTRICTION CODES**

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

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

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

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

RR, Document will be reviewed upon request.

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

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
011. paper	Production list (2 pages)	n.d.	P5

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

QA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**RESTRICTION CODES**

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

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

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

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

RR. Document will be reviewed upon request.

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

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
012. form	University of Chicago (6 pages)	n.d.	Personal Misfile

**COLLECTION:**

Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)

OA/Box Number:

**FOLDER TITLE:**

Folder 12

ds290

**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]