

THE WHITE HOUSE AT WORK
Monday, June 9, 1997

MONDAY: PRESIDENT PROPOSES LAW TO BAN HUMAN CLONING

Today at the White House, President Clinton announces that he is sending to Congress new legislation prohibiting anyone -- in the public or private sector -- from creating a child through human cloning, to make sure scientific exploration is guided by our commitment to human values, the good of society, and our basic sense of right and wrong:

- In March, after a breakthrough in animal cloning, the President banned the use of federal funds for cloning human beings, urged the private sector to observe the ban voluntarily, and asked the National Bioethics Commission to review the legal and ethical issues raised by the new cloning technology.
- In its report to the President today, the National Bioethics Commission concludes that attempting to clone a human being is unacceptably dangerous to the child and morally unacceptable to society.
- The President is sending legislation to Congress to ban the use of new cloning techniques to create a child. Because these techniques hold out the promise of revolutionary new treatments in other areas, the legislation would not ban their use to clone DNA and cells, nor would it ban animal cloning.
- Until the President signs this legislation, his ban on the use of federal funds for human cloning will stay in effect, and he will continue his call for a voluntary private sector ban.

SATURDAY: PRESIDENT ANNOUNCES WHITE HOUSE CONFERENCE ON HATE CRIMES, AND JUSTICE DEPARTMENT REVIEW OF FEDERAL LAWS

In his weekly Radio Address on Saturday, President Clinton called for an all-out assault on hate crimes -- to conquer the dark forces of hatred and division that still exist in our society, so that we can move forward into the 21st Century as One America:

- The President condemned crimes of hatred -- committed solely because of the victim's race or religious faith, national origin or sexual orientation, gender or disability -- as "acts of violence against America itself."
- The President announced that he will convene the first White House Conference on Hate Crimes this November 10th -- to take a serious look at the laws and remedies that can make a difference in preventing hate crimes; to highlight solutions that are working in communities across the country,

and to continue the frank and open dialogue we need to build One America across all difference and diversity.

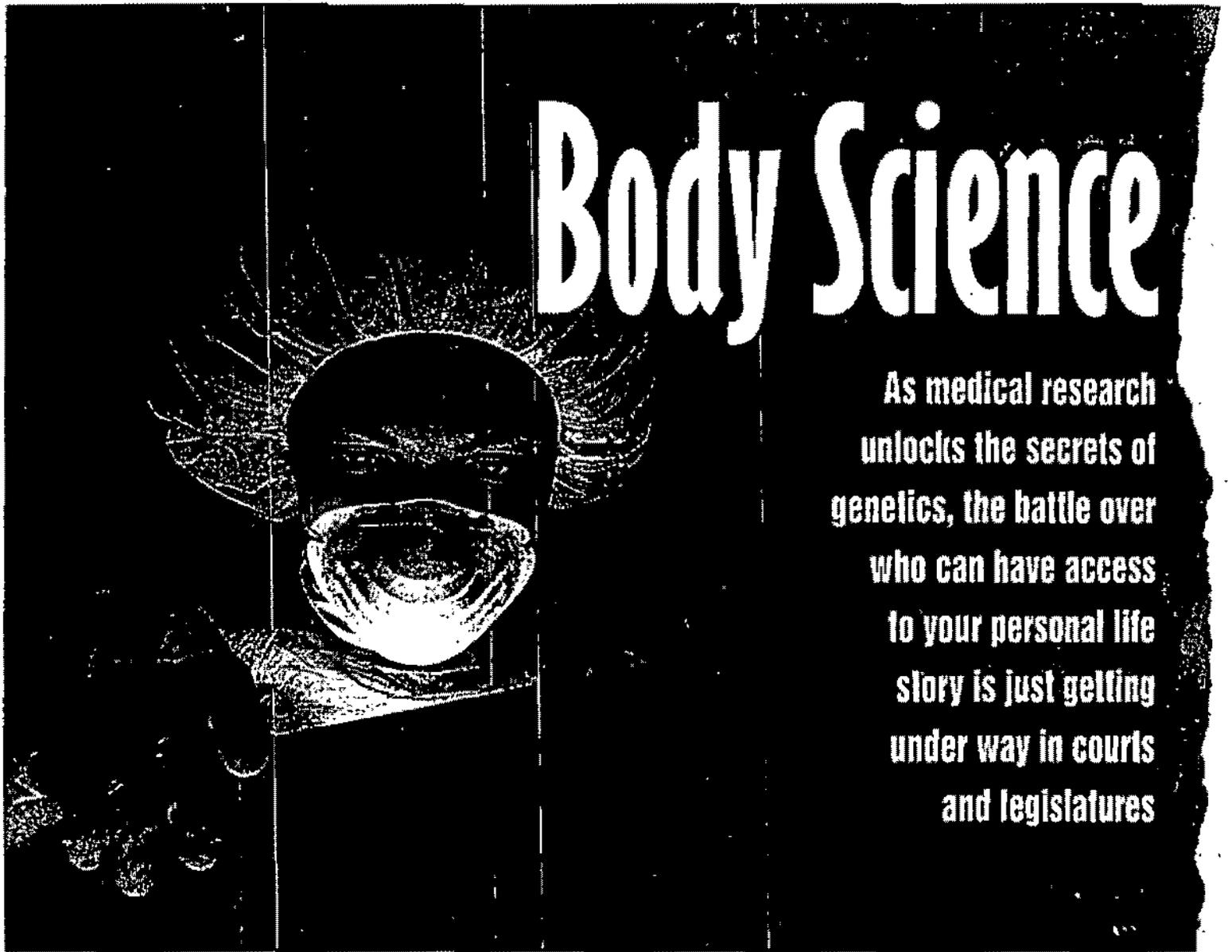
- In preparation for the conference, Attorney General Reno has begun a thorough review of the laws concerning hate crimes and the ways in which the federal government can make a difference to help us to build a more vigorous plan of action.

April 5, 1997

NOTE TO BRUCE REED, ELENA KAGAN, CHRIS JENNINGS, and ELIZABETH DRYE--

Attached is an interesting cover story on genetic testing from the most recent issue of the ABA Journal. This is way out of my bailiwick, but I was surprised to learn that insurers had so much leeway to tailor or refuse coverage based on genetic testing. I know that the question of pre-existing conditions has always been a tough one, but at first blush this seems awfully problematic, as does the possibility that someone might not take a possibly valuable genetic test for fear of insurance consequences. The article made me wonder whether we are doing anything on this front....

-- Bill Kincaid



Body Science

As medical research unlocks the secrets of genetics, the battle over who can have access to your personal life story is just getting under way in courts and legislatures

BY LORI ANDREWS

Predicting the future always has been a human temptation. In one very important sense, we now are close to being blessed—or cursed—with getting our wish.

At an increasingly rapid pace, biological scientists are using genetics research to develop ways for us to learn more about ourselves—more, in fact, than we

Lori Andrews is a professor at Chicago-Kent College of Law and a senior research fellow at the American Bar Foundation. She is the recipient of a grant from the National Center for Human Genome Research of the National Institutes of Health to develop a policy framework for genetic technologies.

might ever want to know.

"We used to think our fate is in our stars," observes James D. Watson, who helped unlock the secrets of DNA in the early 1950s and now directs the Laboratory of Quantitative Biology, a major genetics research center at Cold Spring Harbor on Long Island in New York. "Now we know, in large measure, our fate is in our genes."

Strung together in the almost mystical double helix form of DNA, genes are the basic unit of heredity. They are contained in chromosomes carried by every cell in our bodies. Each cell contains DNA carrying the entire human genome, or all the genetic information necessary to build a person.

Because each human's genes are unique, they are a personal

map for that person's biological past and future—the traits inherited from parents and the ones to be passed on to children.

Unfortunately, not all the genetic news is good. As scientists learn how to "read" genes, they can predict a growing list of potentially harmful diseases and traits.

The bad news contained in genetic information holds deeply personal implications for each individual, but it also is the reason why third parties, such as insurers, employers, schools, the military and the courts, increasingly want to be in on the secret.

The debate over who should have access to genetic information about individuals is likely to intensify in the near future as the pace of discovery picks up in the genetics

A medical technician studies DNA sequences. Genetic testing, once limited to detection of rare diseases, is in the works for heart disease, diabetes and cancer.

field. Courts and legislators are sure to be at the center of the controversy.

Much of the spark for that explosion of knowledge about genetics comes from the Human Genome Project, co-directed by the National Institutes of Health and the Department of Energy. In the project, the federal government is spending some \$3 billion to support efforts to catalog the entire human genetic blueprint by 2005.

For 20 years, genetic testing has been performed on fetuses. One of the first predictive tests for healthy adults screens for the gene that causes Huntington's disease, a debilitating, fatal neurological disorder. Young, healthy people who test positive for the inherited Huntington's mutation know it will kill them someday.

Such genetic news can be psychologically devastating. Consequently, fewer than 14 percent of people at risk for Huntington's disease decide to undergo the genetic testing that may force them to confront their medical future.

But genetic testing is no longer limited to relatively rare diseases such as Huntington's.

Similar tests are being developed for more common disorders such as heart disease, diabetes and certain cancers. Genetic testing also is being proposed for numerous behavioral disorders such as alcoholism, manic-depression and even "risk-taking" behavior.

People are starting to use genetic information to measure the consequences of major life decisions: where to live, what job to take, what type of insurance to purchase, even whether to bear a child.

No Easy Decision

Deciding whether to undergo genetic testing is not easy.

Women with a strong family history of breast cancer, for instance, are faced with the prospect of learning, through testing, that they inherited a genetic mutation that poses an 80 percent lifetime

risk of the disease. But if genetic testing does reveal the breast cancer gene, the woman risks losing the health insurance she may need so badly later on.

"These are not just hypothetical fears," says Nancy Wexler, a clinical psychologist at Columbia University in New York City who has studied families that carry inherited disease. "People who are using genetic testing are losing their insurance. And other people who should avail themselves of genetic testing are losing their lives to save their insurance."

Wexler has a personal stake in her own research. As a member of a team in Venezuela that identified the specific gene for Huntington's disease in 1993, Wexler was zeroing in on what someday may kill her. The disease killed her mother, and Wexler is at 50 percent risk of developing it as well. She has testified before Congress about her belief that people have a right not to know their genetic makeup.

Such decisions about whether to undergo genetic testing are at the heart of the growing legal debate over genetic predictability. Individuals at risk fear that test results may be used against them by employers, insurers, school officials, courts, mortgage lenders, adoption agencies, the military and other entities. At the same time, those institutions claim that individuals are not entitled to deprive them of information that could impact the institutions' own interests.

Genetics is not totally new to the courts—just ask the juries in the O.J. Simpson trials who heard reams of testimony on DNA typing of blood samples. Similar tests also are common in rape and paternity cases.

But those types of cases use genetic factors to link accused parties to incidents that occurred in the past. In the new realm of genetics, the issues are prospective: Do people have a privacy right to their genetic information, or do other parties have a right to demand that it be revealed?

Those questions are arising in a growing number of legal settings: medical malpractice, employment, education, family and civil rights.

Few laws protect intrusions on genetic privacy despite the personal nature of the information.

"The highly personal nature of the information contained in DNA can be illustrated by thinking of DNA as containing an individual's 'future diary,'" says George Annas, a health law professor at Boston University. "A diary is perhaps the most personal and private document a person can create. Diaries describe the past. The information in one's genetic code can be thought of as a coded probabilistic future diary because it describes an important part of a unique and personal future."

In addition to concerns about privacy, institutional interest in an individual's genetic information raises fearsome ghosts in a century that has witnessed far too many waves of genocide, forced sterilization and stigmatization of entire groups of people on the basis of their supposed genetic inferiority.

Moreover, there are concerns that human genetic materials may come to be viewed as commercial products.

"Blood, tissue, placenta, cell

Genetics Basics

Unwinding the human genetics code begins with:

-  **A cell**—Each of 100 trillion in the human body (except red blood cells) contains all the genetic information necessary to create a human being. This information is encoded in 6 billion base pairs, or sub-units of DNA.
-  **The cell nucleus**—Six feet of DNA are packaged into 23 pairs of chromosomes inside the nucleus (one chromosome in each pair comes from each parent).
-  **A chromosome**—Each of the 46 chromosomes contains the DNA for thousands of individual genes, the units of heredity.
-  **A gene**—Each gene is a segment of double-stranded DNA that holds the formula for a specific molecule, usually a protein. These formulas are spelled out in varying sequences of the four chemical bases in DNA that can fit together only in a specific way.

Reprinted from *Blazing a Genetic Trail* © 1991 by Howard Hughes Medical Institute.

Illustrations by Wood Kinsaville Martin Inc. for *Blazing a Genetic Trail* © 1991.



A federal court ruled that two Marines, Cpl. Joseph Vlacovsky and Lance Cpl. John Mayfield III (shown with attorney Eric Seitz) did not have the right to refuse military DNA testing.

lines and genes are valuable resources in the age of biotechnology, useful as sources of information and raw material for commercial products," says Dorothy Nelkin, a New York University sociologist and co-author of *The DNA Mystique: The Gene as a Cultural Icon*. "Geneticists rely on routine access to body tissues for their research. And some biopsied tissue has acquired commercial value as a source of raw material for the development of pharmaceutical products."

Despite these concerns, the law generally has upheld third-party access to a person's genetic information on a number of fronts.

Marines on the Genetic Frontline

On Dec. 16, 1991, the deputy secretary of the U.S. Department of Defense quietly issued an obscure memo that opened the largest DNA bank in the world.

The directive required that every member of the U.S. armed forces and all new recruits provide the Armed Forces Institute of Pathology with a DNA sample, which would be maintained on file for 75 years.

The goal of this ongoing program is to obtain specimens for all active and reserve personnel by

2001 for a very simple reason: to make it easier to identify battlefield dead.

In January 1995, two members of the Marine Corps, Lance Cpl. John C. Mayfield III and Cpl. Joseph Vlacovsky, reported for what they expected to be a routine physical. But when they were informed that they were to provide blood and saliva for DNA sampling, they refused.

The two Marines agreed that using DNA to identify remains was benign, but they expressed concern that the military could, at some point in the future, use the DNA samples for some less innocuous purpose, such as the diagnosis of hereditary disease or disorders, and then could disseminate such information.

Mayfield and Vlacovsky were court-martialed for refusing to obey an order from an officer. In subsequent proceedings, the Marines asserted that the collection, storage and use of their DNA violated their rights to freedom of expression, privacy and due process under the U.S. Constitution.

Their strongest argument was that unreasonable searches and seizures are prohibited by the Fourth Amendment—the same pro-

vision that protects a criminal defendant, for example, from being subjected to stomach pumping when police see the suspect swallow a bag of cocaine in efforts to destroy evidence.

In September 1995, a federal court ruled in favor of the government in *Mayfield v. Dalton*, 901 F. Supp. 300, holding that its interest in accounting for the fate of soldiers and assuring peace of mind to next of kin overrode the constitutional interest of individual service personnel in being free from searches and seizures.

The ruling allowed the military to court-martial the Marines, but they ended up getting light sentences: a reprimand and seven days' restriction to base. The military's policy of requiring DNA testing of its members has not changed.

Members of the military are not the only people in this country with DNA profiles on record. Some insur-

ance companies are requiring genetic testing as a condition of coverage, and others are dropping insureds or charging them higher rates on the basis of genetic information discovered through other channels.

In one instance, a pregnant woman whose fetus was affected

Framing the Debate

As courts, legislators and other policymakers approach the difficult issues surrounding advances in the science of genetics, they might consider a three-prong policy framework. First, legislation, court decisions and other expressions of public policy should assure that people have control over what genetic information is generated about them. Legislation in New Hampshire makes this point, for instance, by stating that, except with respect to paternity testing, newborn screening and forensic testing, no genetic testing shall be done without the prior written and informed consent of the individual to be tested. Second, individuals should have control over who has access to their genetic information.

when she underwent cystic fibrosis testing was informed by her insurance company that it would not pay for the child's health care costs if she chose to complete the pregnancy.

In another case, a woman whose mother had breast cancer was told her own health care coverage would exclude treatment of breast cancer. Even some people who participated in genetics research have subsequently lost their health insurance, including a man who underwent screening for a type of colon cancer as part of a study at the Huntsman Cancer Center at the University of Utah.

Basing Insurance on Genetics

These actions do follow a certain calculated logic. Since it is accepted policy for health insurers to exclude people with pre-existing disorders, genetic testing provides an enormous loophole for classifying numerous diseases or other medical conditions as pre-existing because they have their roots in the genes of prospective insureds.

At first glance, such a policy might seem reasonable, akin to charging smokers higher rates. After all, insurance is based on the concepts of risk-spreading and risk-sharing. When most people's future health risks are unknown, the future health care costs of a group can be predicted on an aggregate, actuarial basis and the costs spread across the whole group.

But with genetics technology beginning to identify which people in a group are likely to develop particular diseases later on, insurance companies have begun to target them for special treatment: higher rates or denial of coverage.

Carried to its extreme, that approach to coverage could make everyone uninsurable, since every human being carries between eight and 12 "defective" genes that might trigger various medical disorders.

Moreover, the insurance industry's developing policies on genetic predictability raise the same privacy concerns for insureds raised by the two young Marines in the face of the military's mandatory DNA screening policy. Many people do not want to be forced to gaze into their biological crystal balls.

In some states, legislators have begun passing bills to prohibit discrimination by insurers based on genetic information.

But the laws passed so far may be too narrow. In Wisconsin, for instance, the legislative protection against insurance discrimination applies only to DNA tests and does not cover tests that analyze proteins contained in genes or information on family histories.

In North Carolina, the law protects only people who carry the gene for sickle-cell anemia (which strikes blacks and, to a lesser extent, some Europeans of Mediterranean descent).

As early as 1989, according to a survey of employers by the congressional Office of Technology Assessment, one in 20 companies conducted genetic screening or monitoring of workers.

And even if employers themselves do not undertake genetic testing, they may receive such information about their employees in other ways. It might be found in medical records submitted by an employee in support of a health insurance claim or reported by the employee's doctor.

"Physicians are increasingly being put into the role of 'double agents,' with dual loyalties to the patient and to the patient's school, employer, potential insurer, relative or child," observes sociologist Nelkin.

Genetic testing by employers has been accompanied by discrimination based on that information.

In the early 1970s, a number of companies discriminated against black employees and job applicants who carried sickle-cell anemia even though that status had no bearing on an employee's current or future health, or on an employee's ability to work since the only significance of carrying the trait was a 1-in-4 chance of passing the disease on to a child if the other parent also was a carrier.

Yet few states have laws banning genetic discrimination in employment. Only six—Florida, Georgia, New Hampshire, New Jersey, New York and Oregon—have statutes explicitly prohibiting genetic testing without consent.

At the federal level, the Americans with Disabilities Act provides some protection against job discrimination for people who carry genes that predispose them to diseases later in life.

The compliance manual of the Equal Employment Opportunity Commission states that under the ADA an employer may not discriminate against a person based on genetic information relating to illness, disease or other disorders. The EEOC indicated, for example, that an employer may not refuse to hire someone just because his or her genetic profile reveals an increased susceptibility to colon cancer.

But the ADA still permits employers to order genetic testing of people who have been offered employment, even without their permission, as long as the information is not used in unfair ways.

This can be accomplished through measures that expand upon state medical confidentiality laws. A statute in Colorado states: "Genetic information is the unique property of the individual to whom the information pertains. Information derived from genetic testing shall be confidential and privileged. Any release, for purposes other than diagnosis, treatment, or therapy, of genetic testing information that identifies the person tested with the test results released requires specific written consent by the person tested."

Moreover, those generating or collecting genetic information should explain their confidentiality protections in advance of delivering those services.

Third, discrimination against individuals based on genetic information should be prohibited.

Seven states have laws prohibiting employers from using genetic information to discriminate: Iowa, New Hampshire, New Jersey, New York, Oregon, Rhode Island and Wisconsin. And seven states prohibit insurers from requiring or requesting genetic tests: Georgia, Maryland, Minnesota, New Hampshire, New Jersey, Ohio and Wisconsin.

Nine states prohibit insurers from using information derived from genetic testing to deny coverage or to limit the terms and conditions of insurance: Colorado, Georgia, Maryland, Minnesota, New Hampshire, New Jersey, Ohio, Oregon and Virginia. (The health insurance laws are a hollow victory, though, since they do not apply to self-insured plans, which are used by most large companies.)

—Lori Andrews



TV anchor-couple Bree Walker Lampley and Jim Lampley were excoriated for conceiving in light of her disability.

In September 1995, the San Francisco Legal Aid Office filed a class action lawsuit by employees of Lawrence Berkeley Laboratories, a research center at the University of California at Berkeley that receives funding from the U.S. Department of Energy.

The suit, *Norman-Bloodsaw v. Lawrence Berkeley National Laboratories*, No. C95-03220 (N.D. Cal., filed Sept. 12, 1995), alleged that the lab had tested black employees for the sickle-cell gene without their knowledge or consent, and had secretly maintained that information in employee files.

The suit was dismissed on grounds that the secret testing did not constitute an intrusion on employee privacy.

Reading, Writing and Genetic Testing

In U.S. schools, genetics is more than just a subject for science classes.

In a few places, schools are using genetic tests to screen students for a syndrome that identifies borderline retardation. In the future, schoolchildren might be screened to identify genes for dyslexia or other learning difficulties, then receive special assistance to compensate for the genetic flaw.

The problem with such an approach, however, is that even if such genes can be identified (and this is a big "if," given that reputable researchers from respected institutions such as Yale have in recent years claimed to have found genes for complex behaviors only to later have to retract their findings), carrying a gene and manifesting the disorder are two different matters.

Not all genes are completely penetrant; there are many genetic conditions that occur in only a minority of the people carrying the gene. Often the gene indicates only a predisposition to a disorder that needs additional intervention, such as a particular environmental exposure, to be triggered. This means some children may be labeled

as deficient because they carry a gene rather than manifest a condition.

The implications are profound. The work of social psychologist Claude Steele at Stanford University indicates that students perform more poorly if they know they are members of a group that traditionally has not been academically strong, a phenomenon known as "stereotype vulnerability."

Teachers' perceptions of students might be affected by such genetic stereotyping, giving lower grades to children identified as having an errant gene even if they are performing normally. That pattern has been identified in psychological studies in which teachers were told that one group of students was better than another when there actually was no difference. The teachers gave the "better" students higher grades and more attention, presumably due to the "halo" effect of a positive label.

The use of genetic screening in higher education is even more problematic. In one case, a man who was at 50 percent risk for Huntington's disease was rejected by medical schools on grounds that it would be a waste of money to train someone who might die young.

For judges with a full load of complex cases, the idea that genetic information might provide some guidance is seductive. Consequently, the use of genetic testing to answer an expanding variety of legal questions is growing, often without sufficient thought to the social context or impact.

In a recent case in Charleston County, S.C., a judge ordered that a woman be genetically tested for Huntington's disease at the instigation of her ex-husband, who was seeking to terminate her parental rights.

This type of case may foreshadow a new kind of battle in custody cases, in which the divorcing parents seek genetic testing on each other to determine who is more predisposed to die sooner from cancer or heart disease. Under this approach, the "better" parent might be adjudged to be the one with the "better" genes.

Genetic testing also could have an explosive impact on personal injury cases.

Under current law, a successful plaintiff in a medical malpractice or other personal injury case generally is awarded damages for future losses on the basis of life expectancy statistics. But savvy defendants may begin to require genetic testing on plaintiffs to find evidence that they have a predisposition to an early death, justifying a reduction in damages.

Forcing parties in custody or personal injury cases to undergo genetic testing could have a strong deterrent effect on parties who fear the consequences of learning unwanted facts about their genetic makeup.

In the South Carolina custody case, the wife was adamantly opposed to being tested for Huntington's disease, even though she faced the loss of her child if she refused. Facing a painful Sophie's choice, she simply disappeared.

The most significant direct legal impact of genetics may be in criminal law, an area in which DNA evidence already is commonplace. But the next step could challenge the very underpinning of the criminal justice system.

Criminal law is based on the idea of free will—that individuals "choose" to engage in criminal acts for which they must be punished.

But as geneticists increasingly claim to find genetic markers for antisocial behavior, the legal system

will be forced to reconsider the concepts of criminal intent and guilt.

A Dutch research group says it has found a gene linked to a propensity to aggression. How should the courts rule on a defendant's claim that he murdered because it was in his genes?

Judges already show some willingness to accept genetic defenses. In similar California cases, two admitted alcoholic lawyers embezzled money from their clients, but the one who claimed his alcoholism was genetic got a lighter sentence. In a murder case, the defendant was found not guilty after her violence was linked to having Huntington's disease.

Are All Genes Created Equal?

The great, vague specter of genetics is how it may eventually influence society's view of equality.

Much of the future research in genetics will not be related to disease but will focus on human individual and group traits, such as intelligence, behavior and race. Researchers now claim that they can distinguish between blacks and whites on the basis of differences in just three of the 100,000 genes in each human.

Arthur Caplan of the University of Pennsylvania Center for Bioethics has written, "Will the information generated by the genome project be used to draw new, more 'precise' boundaries concerning membership in existing groups? Will individuals who have tried to break their ties with ethnic or racial groups be forced to confront their biological ancestry and lineage in ways that clash with their own self-perception and the lives they have built with others?"

The potential exists for genetics research to produce findings that could undermine our conceptions of equality of opportunity, and individual and social responsibility.

Already, some physicians and lawyers suggest that people should have a duty to learn their own genetic status and to avoid having children who may be adversely affected by their genetic heritage.

In articles in both medical and Texas legal literature, Margery Shaw, a lawyer and geneticist, recommends that states adopt policies to prevent the birth of children with genetic diseases. She suggests that the prevention of genetic disease is so important that a couple deciding

to give birth to a child with a serious genetic disorder should be criminally guilty of child abuse.

Shaw also suggests the imposition of tort liability for not sharing genetic information with relatives or for not undergoing genetic testing.

In the case of *Curlender v. Bio-Science Laboratories*, 106 Cal. App. 3d 811 (1980), a California appellate court stated in dicta that a child with a genetic defect could bring suit against her parents for not undergoing prenatal screening and aborting her.

In 1991, Bree Walker Lampley, a television anchor in Los Angeles, found herself caught up in the intense emotions that these issues can breed. When Lampley, who has ectrodactyly, a mild genetic condition that caused the bones in her fingers and toes to fuse, made public her decision to give birth to a child with the same condition, a radio talk show host and her listeners attacked the decision as irresponsible and immoral.

Lampley, along with several disability rights groups, filed a Federal Communications Commission complaint against the radio station for violating its personal attack rule and failing to present both sides of the issue. The complaint was denied.

Throughout the United States, people seem to have drifted into a mindset that assumes that if genetic information exists, it should be acted on and taken into consideration in a variety of social realms.

In *The DNA Mystique*, Nelkin and co-author Susan Lindee observe how quickly the new genetics has become part of popular culture. Their studies found that genes have been used to explain a wide range of social phenomena, including crime, job success, sexual orientation and adultery.

Nelkin and Lindee speculate on why such explanations are read-

ily accepted by the public: "They can relieve personal guilt by implying compulsion, an inborn inability to resist specific behavior" and they can relieve societal guilt and give society an excuse to cut out social services by deflecting attention away from social and economic influences on behavior.



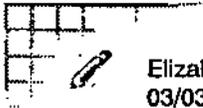
How genetic research will impact society remains to be seen.

Clearly, the promise of genetics is everywhere, and much fanfare accompanies each genetic discovery.

But less attention is focused on how we will use knowledge gained through genetic testing. When an article in the *Journal of the American Medical Association* heralded the discovery (later disputed) of a genetic marker for alcoholism, 140 newspapers and magazines ran articles praising the advance. Not a single article addressed the issue of what we would actually do if we identified individuals with a genetic propensity toward alcoholism.

The vexing question of how the fruits of genetic research should be used by society is on the table. Scientists are charting the map of the human genome, but the legal system will play a crucial role in determining where that map leads. ■

Human cloning



Elizabeth Drye
03/03/97 09:14:51 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP
cc: Elena Kagan/OPD/EOP, Cathy R. Mays/OPD/EOP
Subject: Cloning event 9:00 a.m. Tuesday

Reminder that you are scheduled to join the POTUS, VPOTUS, Shalala, Varmus, NBAC Chair Harold Shapiro, Gibbons etc. at 9:00 a.m for cloning I am leaving in Cathy's chair OSTP's briefing memo, the draft fact sheet, the draft directive, and another copy of the memo to POTUS. Drafts will be final once Varmus reviews in the early morning. OSTP is finishing up Q&A which I will get to you as well. Let me know if you need anything else. Thanks. Hope Florida was fun.

March 3, 1997

CLONING MEETING AND STATEMENT

DATE: March 4, 1997
LOCATION: Oval Office
TIME: 9:00 A.M.
FROM: Tim Newell

I. PURPOSE

You will meet with Administration officials in the area of research and ethics to 1) issue a statement on cloning to assure the public that federal funds will not be used to clone humans; and (2) call on the scientific community to voluntarily refrain from human cloning until the ethical issues can be considered.

II. BACKGROUND

The recent announcement that Scottish researchers have successfully cloned an adult sheep has received widespread attention, since, hypothetically, similar techniques could be used to clone humans. Because of the ethical concerns human cloning would present, on February 24 you asked your National Bioethics Advisory Commission (NBAC) to review the legal and ethical issues involved and to report back within 90 days on possible federal actions (see attached letter to Dr. Shapiro, NBAC Chair).

Most scientists believe that human cloning faces major scientific barriers, and the majority of experts believe that any prospect of successfully applying this new cloning method to human beings in the near future is remote.

Human cloning research also faces federal funding barriers. On December 2, 1994, you issued a statement barring the use of federal funds to create human embryos for research purposes. Appropriations bills for FY96 and FY97 codified this policy and expanded it to cover HHS research in which human embryos are "destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero." (The Administration has opposed addressing the issue through legislation and has supported repealing this provision)

There is some fear, however, that public concern over this issue could erode support for important genetic research programs, and/or result in overly-restrictive legislation. On February 26, testifying before the House Appropriations Subcom. on Labor, Health and Human Services, Dr. Varmus stated that while the idea of human cloning was "repugnant," he "would be concerned about a rush to legislate" a prohibition since legislation could also restrict related work that offers important medical, economic, and scientific benefits.

A consensus is emerging that researchers should not pursue the cloning of human beings at least until the nation has more thoroughly considered the ethical implications of the technology. The current restrictions do not assure this outcome for two reasons.

First, the current ban on using federal funds to create embryos for research does not explicitly prohibit all human cloning -- it only covers cloning of embryos that will be discarded (not implanted), and only covers HHS-funded research.

Second, the restrictions apply to federally-supported human embryo research only, not privately-funded activities. Privately funded facilities are free to engage in human cloning research under current law. There is a booming business in all forms of reproduction technology to assist infertile couples. Human cloning is not likely to be pursued in this context -- at least until it has a chance of competing successfully against existing technology -- but it cannot be definitively ruled out.

Congress has scheduled fact-finding hearings on human cloning March 5 (Technology Subcommittee, House Science Committee) and March 12 (Senate Subcommittee on Science, Technology and Space). NIH Director Harold Varmus has been asked to testify at both upcoming hearings.

Your statement at this time is intended to reassure the public; deter restrictive, ill-advised legislation; and strengthen the nation's resolve to consider ethical questions carefully before advancing human cloning by 1) clarifying that federal dollars cannot be used for human cloning and that you are signing a memorandum to that effect; 2) calling on the scientific community to refrain from human cloning at least until NBAC and the nation have carefully considered the issue.

III. PARTICIPANTS

Meeting Participants

The President

The Vice President

Secretary Shalala

Harold Varmus, Director of NIH

Harold Shapiro, President of Princeton University/Chair, Natl Bioethics Advisory Comm

Jack Gibbons

Bruce Reed

John Podesta

Tim Newell

Oval Office Event Participants

The Vice President

Secretary Shalala

Harold Varmus, Director of NIH

Harold Shapiro, President of Princeton University/Chair, Natl Bioethics Advisory Comm.

Jack Gibbons

Bruce Reed

John Podesta

Tim Newell

Elena Kagan

Elizabeth Drye

Cliff Gabriel

Rachel Levinson

IV. PRESS PLAN

Press Pool

V. SEQUENCE OF EVENTS

- At 9:00 AM, you will meet briefly in the Presidential Dining Room with the Vice President, Sec. Shalala, Dr. Varmus, Dr. Shapiro, Jack Gibbons, and Bruce Reed to discuss the Administration's response to the recent advances in cloning technology.
 - Dr. Varmus will brief the Vice President and you on the biomedical implications of the new cloning technology.
 - Dr. Shapiro will discuss how NBAC will respond to your request for a review of the ethical and legal implications related to cloning humans.
- At 9:10 AM, you will proceed into the Oval Office to the podium, accompanied by the Vice President, Sec. Shalala, Dr. Varmus, Dr. Shapiro, and Jack Gibbons.
- You will make a statement on cloning to the Press Pool.
- You will take questions from assembled press.
- You will depart the Oval Office.

VI. REMARKS

To be provided by Speechwriters

VII. ATTACHMENTS

24 Feb 97 letter to NBAC/Shapiro

March 4, 1997

Memorandum for Heads of Federal Agencies

Subject: Federal Funding of Human Cloning

Recent accounts of advances in cloning technology, including the first successful cloning of an adult sheep, raise important questions. They potentially represent enormous scientific breakthroughs that could offer benefits in such areas as medicine and agriculture. But the new technology also raises profound ethical issues, particularly with respect to its possible use to clone humans. That is why last week I asked our National Bioethics Advisory Commission to thoroughly review the legal and ethical issues associated with the use of this technology and report back to me in 90 days.

Federal funds should not be used for human cloning. The current restrictions on the use of federal funds for research involving human embryos do not fully assure this result. In December, 1994 I directed the National Institutes of Health not to fund the creation of human embryos for research purposes. Congress extended this prohibition in 1996 and 1997 appropriations bills, barring the Department of Health and Human Services from supporting certain human embryo research. These restrictions do not explicitly cover human embryos created for implantation and do not cover all federal agencies. I want to make it absolutely clear that no federal funds will be used for human cloning. Therefore, I hereby direct that no federal funds shall be allocated for cloning human beings.

**President Clinton Announces Steps to
Prevent Cloning of Human Beings While Nation Examines Ethical Issues
March 4, 1997
---- DRAFT ----**

Announcement

President Clinton today issued a directive to ensure that no federal funds will be used to clone human beings. The current restrictions on the use of federal funds do not assure this result. They do not explicitly cover human embryos created by cloning for implantation and do not cover all federal agencies. The directive President Clinton is signing today will make it crystal clear that no federal funds will be used to clone human beings.

- o **President Clinton called on privately-funded scientists to implement a voluntary moratorium on all efforts to undertake human cloning, at least until the National Bioethics Advisory Commission -- and the entire nation -- have considered its profound ethical implications.** Since privately-funded scientist are not covered by the President's directive, a voluntary moratorium would ensure that ethical issues are fully debated before there are any efforts to clone human beings.

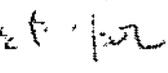
Background

- o **The February 27 issue of *Nature* contains an account of the first successful cloning of an adult sheep.** The new technology could lead to major beneficial advances in science, agriculture, and medicine. For example, it may inform new methods for producing human proteins, creating model organism to study human diseases, and possibly reprogramming human cells for treatment of cancer, burns, and other disorders. But the new technology also raises profound ethical issues, particularly with respect to its possible use to clone human beings.
- o **On February 24 President Clinton asked the National Bioethics Advisory Commission (NBAC) to review the legal and ethical issues involved and to report back within 90 days on possible federal actions.**
- o **The President does not believe federal funds should be used for human cloning, and current restrictions on federal funds do not fully assure that result.** In December, 1994 the President directed the National Institutes of Health not to fund the creation of human embryos for research purposes. Congress extended this prohibition in 1996 and 1997 appropriations bills, barring the Department of Health and Human Services from supporting certain human embryo research. These restrictions do not explicitly cover human embryos created by cloning for implantation and do not cover all federal agencies.
- o **Privately-funded scientists and clinicians are not prohibited from cloning human beings.** Although most scientists believe that the possibility of cloning human beings in the near future is remote, a voluntary moratorium would assure that the nation fully considers ethical issues before any attempts are made to clone human beings.

THE WHITE HOUSE
WASHINGTON

March 3, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Jack Gibbons 
Assistant to the President for Science and Technology
Bruce Reed 
Assistant to the President for Domestic Policy

SUBJECT: Background and Suggested Presidential Statement on Cloning

As you know, the February 27 issue of *Nature*, a renowned scientific journal, contains an account of the first successful cloning of an adult sheep. Hypothetically, similar techniques could be used to clone humans. Because of the ethical concerns human cloning would present, on February 24 you asked your National Bioethics Advisory Commission (NBAC) to review the legal and ethical issues involved and to report back within 90 days on possible federal actions.

We recommend that you: (1) issue a statement on cloning to assure the public that federal funds will not be used to clone humans; and (2) call on the scientific community to voluntarily refrain from human cloning while NBAC and the nation distinguish the facts from the hype and consider its ethical implications.

Background

Most scientists believe that human cloning faces major scientific barriers. For complicated scientific reasons, sheep may be more easily cloned than humans and other animals, and all attempts to clone other mammals such as mice starting with cells from mature animals have failed. The majority of experts believe that any prospect of successfully applying this new cloning method to human beings in the near future is extremely remote.

Human cloning research also faces funding barriers. On December 2, 1994, you issued a statement barring the use of federal funds to create human embryos for research purposes. Appropriations bills for FY96 and FY97 codified this policy and expanded it to cover HHS research in which human embryos are "destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero." (The Administration has opposed addressing the issue through legislation and has supported repealing this provision). Senator Bond (R-MO) has begun to draft legislation making permanent the current ban on federal funding for human embryo research.

News reports have indicated that the Congressional ban prohibits using federal funds for human cloning, and no one in Congress has taken issue with this understanding. But the language is not as tight as it could be. It does not explicitly bar federally-supported scientists from creating human

embryos they intend to implant -- it only prohibits them from creating embryos they will discard. In addition, the Congressional ban only covers HHS-funded research.

Privately funded facilities are free to engage in human cloning research under current law. There is a booming business in all forms of reproduction technology to assist infertile couples. Human cloning is not likely to be pursued in this context -- at least until it has a chance of competing successfully against existing technology -- but it cannot be definitively ruled out.

Congress has scheduled fact-finding hearings on human cloning March 5 (Technology Subcommittee, House Science Committee) and March 12 (Senate Subcommittee on Science, Technology and Space). NIH Director Harold Varmus has been asked to testify at both upcoming hearings. On February 26, in testimony before the House Appropriations Subcommittee on Labor and Health and Human Services, Dr. Varmus stated that the idea of human cloning was "repugnant." He went on to say that he "would be concerned about a rush to legislate" a prohibition since legislation could also restrict related work that offers important medical, economic, and scientific benefits.

Rushed attempts to ban cloning could easily result in unintended harmful effects on important research. For example, Dr. Varmus has noted that sheep cloning might inform new methods for producing human proteins, creating model organisms to study human diseases, and possibly reprogramming human cells for treatment of cancer, burns, and other disorders. Therefore, any restraints on human cloning should be worded carefully to avoid unintended consequences on a broader sphere of biomedical and agricultural research.

A consensus is emerging, however, that researchers should not pursue human cloning at least until the nation has more thoroughly considered the ethical implications of the technology. The current restrictions do not assure this outcome for two reasons. First, as noted above, the current ban on using federal funds to create embryos for research does not explicitly prohibit all human cloning -- it only covers cloning of embryos that will be discarded (not implanted), and only covers HHS-funded research. Second, the restrictions apply to federally-supported human embryo research only, not privately-funded activities.

You could urge the non-federally funded scientific community to declare a self-imposed moratorium on human cloning. Some in science will question the need for this approach because they do not believe our ability to clone humans is imminent. Some also believe that it would be inappropriate for you to take action before NBAC reports back to you with recommendations (your referral of the issue to NBAC received enthusiastic, bipartisan support at NIH's February 26 appropriations hearing). On the other hand, your calling for a moratorium might deter restrictive, ill-advised legislation, reassure the public, and strengthen the nation's resolve to consider ethical questions carefully before advancing human cloning. The scientific community favors a voluntary moratorium over a Congressional ban, and key scientists including Dr. Varmus would understand your calling for it.

Suggested Presidential Statement

We recommend that you issue a statement to:

- o Affirm the scientific promise of the new cloning technique and its concurrent ethical challenges;
- o Argue that ethical concerns must be confronted before people try to use the technology to clone humans;
- o Restate that you have referred the issue to NBAC;
- o Clarify that federal dollars cannot be used for human cloning and that you are signing a memorandum to that effect; and
- o Call on the scientific community to refrain from human cloning at least until NBAC and the nation have carefully considered the issue.

WHITE HOUSE STAFFING MEMORANDUM

7:00 P.M.

DATE: 3/3/97 ACTION/CONCURRENCE/COMMENT DUE BY: 3/3/97

SUBJECT: Remarks on Human Cloning

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BOWLES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
PODESTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RUFF	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MATHEWS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SMITH	<input type="checkbox"/>	<input type="checkbox"/>
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BAER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ECHAVESTE	<input type="checkbox"/>	<input type="checkbox"/>	LEWIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	YELLEN	<input type="checkbox"/>	<input type="checkbox"/>
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HIGGINS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>
HILLEY	<input type="checkbox"/>	<input type="checkbox"/>	RADD	<input type="checkbox"/>	<input type="checkbox"/>
KLAIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Waldman</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BERGER	<input type="checkbox"/>	<input type="checkbox"/>	<u>Kagan</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	<u>Newell</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

REMARKS: Comments to Eli Attie.

RESPONSE: _____

draft 2/2 2pm

**PRESIDENT WILLIAM J. CLINTON
REMARKS ON HUMAN CLONING
Tuesday, March 3, 1997**

'97 MAR 3 PM 3:00

In recent days, all Americans were startled to learn of the successful cloning of a sheep by Scottish researchers. There is no question that this is a breakthrough of enormous consequence for science, medicine, and agriculture -- one that could yield important benefits in the years to come.

It also raises a very troubling prospect -- that it might someday be possible to use these techniques to clone human beings from our own genetic material.

There is much about this discovery and its applications that we still do not know. But this much we do know: any discovery that touches upon human creation is not simply a matter of scientific inquiry. It is a matter of human morality and human decency as well.

My own deeply-held view is that the prospect of human cloning is morally repugnant. It violates our most cherished concepts of faith and humanity. Each human life is unique -- blessed by the spirit of a mother and a father, born of a miracle that reaches beyond laboratory science. I believe that we must respect this profound gift, and resist the temptation to become our own creators.

That is why, one week ago today, I asked our National Bioethics Advisory Commission, headed by Princeton University President Harold Shapiro, to conduct a thorough review of the moral and ethical issues raised by this new cloning technology, and to recommend possible actions to prevent its abuse. Their report, due back in 90 days, will give us a better understanding of the scope and implications of this scientific breakthrough.

But there are steps we can take right now to prevent the possibility of human cloning. After reviewing the current restrictions on the use of federal funds for research involving human embryos, we found loopholes that could allow human cloning. Today, I am issuing a directive that bans the use of any federal funds for human cloning. Effective immediately, no federal agency may support, fund, or undertake such activity.

Of course, a great deal of research and activity in this area is supported by private funds. That is why I am urging the entire scientific community -- and every foundation, university, and industry that supports work in this area -- to heed the federal government's example. I am asking for a voluntary moratorium on all efforts to pursue or undertake human cloning, until our Bioethics Advisory Commission and our entire nation have had a chance to understand and debate the profound ethical implications.

Until we learn more about the potential uses and abuses of cloning, the sensible course is to proceed not just with caution, but with conscience as well. By insisting that not a single taxpayer's dollar supports human cloning -- and by urging a moratorium on all private efforts to pursue human cloning -- we can ensure that as we move forward on this issue, we weigh the concerns of faith and family, and not just of laboratory science alone.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 3/3 ACTION/CONCURRENCE/COMMENT DUE BY: 3/4 8:00 am

SUBJECT: Draft Presidential Memorandum on Cloning

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BOWLES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input type="checkbox"/>	<input type="checkbox"/>
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KLAIN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
BERGER	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Comments to his office

RESPONSE: _____

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR HEADS OF FEDERAL AGENCIES

SUBJECT: Federal Funding of Human Cloning

The recent account of the first successful cloning of an adult sheep raises important questions. It represents an enormous scientific breakthrough that could offer potential benefits in such areas as medicine and agriculture. But the new technology also raises profound ethical issues, particularly with respect to its possible use to clone humans. That is why last week I asked our National Bioethics Advisory Commission to thoroughly review the legal and ethical issues associated with the use of this technology and report back to me in 90 days.

Federal funds should not be used for human cloning. The current restrictions on the use of Federal funds for research involving human embryos do not fully assure this result. In December, 1994 I directed the National Institutes of Health not to fund the creation of human embryos for research purposes. Congress extended this prohibition in 1996 and 1997 appropriations bills, barring the Department of Health and Human Services from supporting certain human embryo research. These restrictions do not explicitly cover human embryos created for implantation and do not cover all Federal agencies. I want to make it absolutely clear that no Federal funds will be used for human cloning. Therefore, I hereby direct that no Federal funds shall be allocated for cloning human beings.

copied
Kagan
Gibbons
COJ

Cloning

THE WHITE HOUSE
WASHINGTON
June 8, 1997

Drna -
FYI. What we gave to the
President this weekend.
Elena

MEMORANDUM FOR THE PRESIDENT

THE PRESIDENT HAS SEEN
6/8/97

FROM: TODD STERN ~~COJ~~
SUBJECT: Proposed Cloning Legislation

At your cloning event tomorrow, you will receive the report of the National Bioethics Advisory Commission and announce legislation along the lines of NBAC's proposal. Elena Kagan and Jack Gibbons seek your views on two issues -- embryo research, which has already been run by you once, in the memo you received last week, and a sunset provision. *It would be desirable for you to reconfirm your views on the embryo issue before the event tomorrow, since you are likely to be asked about it. If you are comfortable deciding the sunset issue as well, you will be able to submit the legislation tomorrow. Alternatively, if you need more time, you can announce at the event tomorrow that you will be submitting legislation in the near future. It would be very helpful for planning purposes if you could return this memo to our office today.*

Embryo research. In a nutshell, NBAC would ban the cloning of embryos for implanting in a woman's uterus (i.e., cloning humans), but take care not to inhibit cloning of human cells or tissues or the cloning of animals. NBAC's proposed legislation would *not* ban the cloning of embryos for research purposes, regarding that as ethically no different from the creation of research embryos through other techniques. You have banned the use of federal funds to create embryos for research, but have not supported a broader prohibition. The pro-life community will criticize any failure to ban the cloning of research embryos, but a ban on cloning for research would be strongly opposed by the scientific and fertility communities, since such a ban could halt research on infertility and possibly other conditions. **The attached Kagan/Gibbons memo recommends that you follow NBAC in *not* banning the cloning of embryos for research.**

Agree Disagree _____ Discuss _____

Sunset. Your proposed legislation currently includes a 5-year sunset provision and directs NBAC to report to the President in 4 1/2 years on whether to continue the ban. This follows NBAC's strong recommendation. Some will criticize a sunset provision, however, saying that if you are banning cloning for ethical reasons (as opposed to, say, safety), then nothing will change in 5 years and there is no reason for a sunset. But even some who see cloning as ethically wrong think it would be a good idea to renew the national debate in a few years, see whether the legislative language needs adjustment, etc. And the biotech and pharmaceutical industries will very likely oppose cloning legislation *unless* there is a sunset. The Vice President favors NBAC review after 4 1/2 years, but no built-in sunset; the biotech and pharmaceutical communities, as well as Gibbons and Varmus (NIH), oppose this approach.

5-year sunset No sunset/but review (VP idea) _____ No sunset or review _____ Discuss _____

THE WHITE HOUSE
WASHINGTON

1997 JUN 8 PM 12:47

June 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Jack Gibbons
Assistant to the President for Science and Technology

Elena Kagan
Deputy Assistant to the President for Domestic Policy

SUBJECT: Cloning Policy Decisions

This memo summarizes (1) the final version of the National Bioethics Advisory Commission (NBAC) cloning report completed yesterday, and (2) the cloning legislation we have prepared for you to submit to Congress on Monday. The memo addresses two issues about the legislation we would like you to focus on: (1) whether to prohibit the production of embryos (as well as human beings) through cloning; and (2) whether to sunset the prohibition on cloning after 5 years.

NBAC's Findings and Recommendations

In its final report NBAC states that at this time it is morally unacceptable for anyone to attempt to create a child using the technology that created Dolly the sheep (so-called somatic cell nuclear transfer technology). NBAC also concludes that the cloning of DNA, cells, and tissues, and the cloning of animals, are scientifically important and not ethically problematic. NBAC chose not to address at all the cloning of embryos for research purposes. NBAC calls for:

- Carefully-worded legislation that prohibits somatic cell nuclear transfer to create a child (without impeding important cloning research on DNA, cells, and animals), sunsets in 3-5 years, and provides for further review by an advisory body prior to the sunset date;
- Continuing your moratorium on the use of federal funds for cloning human beings while the proposed legislation is pending;
- Calling on all scientists and clinicians to adhere to the voluntary moratorium while the proposed legislation is pending; and
- Working with other countries to enforce common aspects of cloning restrictions.

Proposed Legislation

The legislation you will announce tomorrow, as currently written:

- Prohibits the use of somatic cell nuclear transfer with the intent of introducing the product into a woman's womb or in any other way creating a human being;
- Gives the Attorney General authority to seek injunctive relief, impose civil fines up to \$250,000 or twice the profit from a violation of the Act (whichever is greater), and seize any and all property used in violating the Act (including entire laboratories);
- Sunsets the prohibition on cloning 5 years from the date of enactment; and
- Directs the National Bioethics Advisory Commission to report to you prior to the sunset date on the advisability of continuing the prohibition.

Key Legislative Issues

1. Embryo Research

NBAC's proposed legislation --and, as currently drafted, your bill --would not ban the creation of cloned embryos for research purposes. NBAC simply did not evaluate the ethics or scientific benefits of this activity; it focused exclusively on the use of cloning techniques to create an embryo that would then be implanted in a woman's uterus and brought to term. NBAC reasoned that other entities (including a 1994 NIH panel) already have discussed extensively the creation of embryos for research purposes and that the use of cloning technology in this context raises no distinct ethical issues. By contrast, the use of somatic cell nuclear transfer technology to create a child raises a host of new and different ethical issues relating to safety, individuality, and family integrity.

You took action in 1994 to restrict embryo research by banning the use of NIH funds to create embryos for research purposes. (The NIH panel had recommended permitting the funding of research on embryos in very limited circumstances.) You also signed a spending bill that included a prohibition on the use of HHS funds for embryo research. But your budget submissions for FY97 and FY98 stated in a footnote that the Administration did not support addressing this issue in legislation. Nor have you ever indicated support for extending the current restriction to privately funded embryo research.

The right-to-life community already has criticized NBAC for not recommending a ban on creating cloned embryos. But there are good reasons for not going so far. There is no moral rationale for treating embryos created through cloning differently from embryos developed through other means (e.g. in vitro fertilization) when embryos are used solely for research. Prohibiting the creation of embryos for research using private funds could halt important research on infertility and possibly other medical conditions and would provoke strong opposition from the scientific and fertility communities. In short, it is a controversial step that merits further consideration. We therefore recommend that you limit the scope of the legislation you submit to Congress on Monday to the issue the Commission addressed. If asked about your position on embryo research, you should note that it is an important but

separate question and reiterate your position that no federal funds should be used to create embryos for research purposes.

2. Sunset Provision

NBAC recommends strongly that any legislative prohibition on cloning include a sunset clause to ensure that Congress review the issue after a specified period of time.

Whether a sunset provision makes sense depends in part on why a cloning ban is appropriate. For those who believe cloning is unethical primarily because of safety concerns, a sunset is necessary because time may mitigate those concerns. But for those who believe that cloning is inherently immoral, a sunset provision may seem wrong because time cannot lessen the problem. If you propose a sunset provision, you will subject yourself to criticism on this score.

It is important to understand, however, that some who share your view that cloning is inherently wrong nonetheless favor a sunset provision. They reason that: (1) a sunset provision provides a strong incentive for Congress and the Administration to renew the national debate on cloning within several years, ensuring continued attention to the ethical questions; (2) there has been little time to fully consider the moral issues, and it is possible that convictions may evolve; and (3) there is a high probability that Congress will simply get the legislative language wrong the first time around, given our limited understanding of the science, the difficulty of defining terms, and the vagaries of the legislative process.

As an alternative to proposing a sunset provision, you could propose legislation that provides for review by NBAC in 4 ½ years but does not sunset the ban. This approach would shift the burden of proof to those who want to lift the ban, since Congress would have to act affirmatively to effect change. Jack Gibbons, Harold Varmus, and the scientific and biotechnology communities oppose this modification to your draft legislation. The Vice President prefers this modified approach.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 4, 1997

REMARKS BY THE PRESIDENT
ON CLONING

The Oval Office

9:25 A.M. EST

THE PRESIDENT: Good morning. I'm glad to be joined this morning by the Vice President, Secretary Shalala, Dr. Harold Varmus, the head of NIH; Dr. Harold Shapiro, the President of Princeton and the Chairman of our Bioethics Advisory Commission; and Dr. Jack Gibbons, the President's Advisor on Science and Technology, all of whom know a lot about and care a lot about this issue we are discussing today.

The recent breakthrough in animal cloning is one that could yield enormous benefits, enabling us to reproduce the most productive strains of crop and livestock, holding out the promise of revolutionary new medical treatments and cures, helping to unlock the greatest secrets of the genetic code. But like the splitting of the atom, this is a discovery that carries burdens as well as benefits.

Science often moves faster than our ability to understand its implications. That is why we have a responsibility to move with caution and care to harness the powerful forces of science and technology so that we can reap the benefit while minimizing the potential danger.

This new discovery raises the troubling prospect that it might someday be possible to clone human beings from our own genetic material. There is much about cloning that we still do not know. But this much we do know: any discovery that touches upon human creation is not simply a matter of scientific inquiry, it is a matter of morality and spirituality as well.

My own view is that human cloning would have to raise deep concerns, given our most cherished concepts of faith and humanity. Each human life is unique, born of a miracle that reaches beyond laboratory science. I believe we must respect this profound gift and resist the temptation to replicate ourselves.

At the very least, however, we should all agree that we need a better understanding of the scope and implications of this most recent breakthrough. Last week, I asked our National Bioethics Advisory Commission, headed by President Harold Shapiro of Princeton, to conduct a thorough review of the legal and the ethical issues raised by this new cloning discovery, and to recommend possible actions to prevent its abuse, reporting back to me by the end of May.

In the meantime, I am taking further steps to prevent human cloning. The federal government currently restricts the use of federal funds for research involving human embryos. After reviewing these restrictions, our administration believes that there are loopholes that could allow the cloning of human beings if the technology were developed. Therefore, today I am issuing a directive that bans the use of any federal funds for any cloning of human beings.

MORE

Effective immediately, no federal agency may support, fund, or undertake such activity. Of course, a great deal of research and activity in this area is supported by private funds. That is why I am urging the entire scientific and medical community, every foundation, every university, every industry that supports work in this area to heed the federal government's example. I'm asking for a voluntary moratorium on the cloning of human beings until our Bioethics Advisory Commission and our entire nation have had a real chance to understand and debate the profound ethical implications of the latest advances.

As we gain a fuller understanding of this technology, we must proceed not just with caution, but also with a conscience, by insisting that not a single taxpayer dollar supports human cloning. And by urging a moratorium on all private research in this area, we can ensure that as we move forward on this issue, we weigh the concerns of faith and family and philosophy and values, not merely of science alone. Thank you very much.

Q Mr. President, how do you think the Vice President did in his rebuttal yesterday, and do you agree with him that you two are in a separate category in terms of fundraising from federal property?

THE PRESIDENT: Well, I agree with -- number one, I thought he did very well and I agree with the statement he made and I agree that what he did was legal. But I also agree with the decision that he made.

I would remind you just that we knew that we had a very stiff challenge. We were fighting a battle not simply for our reelection, but over the entire direction of the country for years to come, and the most historic philosophical battle we've had in America in quite a long time -- over the direction of the budget, over our commitment to education, over whether we would dismantle large chunks of our environmental regulations and our public health regulations. It was a significant thing for America, and we knew that we were going to be outspent and outraced, but we knew we had to do everything we could to at least be competitive enough to get our message out.

In fact, that is what happened. We were outspent and outraced by more than \$200 million; but thanks to the Vice President's efforts and those of thousands of others and a million small donors, we were able to get our message out.

Q But did you overdo it in a sense that now you're regretting, obviously -- you must be -- all the things that have happened since then?

THE PRESIDENT: The only thing I regret -- and I regret this very much as I have said -- is that a decision was made which I did not approve of or know about to stop the rigorous review of checks coming in to the Democratic Committee so that some funds were accepted which should not have been accepted. I regret that very much. And I have said that I feel, as the titular head of the Democratic Party I feel responsible for that; I think all of us in the line of command are. And I was very proud of Governor Romer and Mr. Grossman and the entire Democratic Committee when they made a full accounting; they went over all the checks, they did something as far as I know no party has done in modern history, and they gave back money that was not only clearly illegal, but that was questionable, and they're going on. I regret that very much, because that never should have happened in the first place.

For the rest, I think the Vice President said he thought that some changes were in order, but I don't regret the fact that we worked like crazy to raise enough money to keep from being rolled

over by the biggest juggernaut this country had seen in a very long time. And I think it would have been a very bad thing for the American people if that budget had passed, if their plans to dramatically dismantle the environmental protections and the public health protections the country had passed, and I am glad we stood up to it. I'm glad we fought the battles of '95 and '96, and I'm glad it came out the way it did, and we had to be aggressive and strong within the law, and I'm very proud of what the Vice President did.

Q. Don't you think it puts the Vice President in a vulnerable --

Q. Mr. President, what is the extent of your order today? How much funds -- do you know how much funds were being spent toward this human cloning, if any?

THE PRESIDENT: We attempted previously to have a ban on this, going back to '94, I believe. The nature of the new discovery raised the prospect that the technology was not covered specifically by the nature of the ban. So as far as I know, nothing is going on in government-funded research. I just want to make sure that we keep it that way, because our research dollars are spread all across the country in different institutions.

With regard to the private sector, let me say that our staff here in the White House has been in touch with a number of people in the biotech industry, and they seem to be glad that we called and anxious to participate in a moratorium until we think through the implications of this.

I mean, I imagine a lot of you, not as journalists but in your own private homes have sat around talking about this discovery in the last few days; I know we have in our home. And I just think that we need the best minds that we can bring to bear and the distinguished people on the Bioethics Advisory Committee to think through this, tell us about what we may be missing about if there's anything positive that could come from this, and also think through the other implications.

How can we get the benefits of our deep desire to find any possible cure for any malady that's out there without raising the kind of ethical implications that, in effect, we're in the business where people are trying to play God, or to replicate themselves.

Q. Mr. President, Democrats and Republicans are bogged down in Congress over whether to conduct hearings on the fundraising issue. Do you want to see that happen, and would you so tell your Democrats, you fellow Democrats up on the Hill?

THE PRESIDENT: My understanding is that the Democrats have no objection whatever to the hearings, they just believe that they ought not to go on forever and that they don't need to -- they're disputing whether \$6.5 million needs to be spent. That's something that they need to work out among themselves.

I certainly have no objection to hearings. I've always assumed that they would occur, but I think that the American people are entitled to know that some prudence will be exercised in how much money is spent, because there's a lot of other things out there to be done, and we have the public's business to get on with as well -- a lot of other issues that need to be dealt with. And what I'm hoping that we can do is to just reconcile how this is going to be dealt with, and maybe spend some of that money to properly fund the Federal Election Commission so they can do the kind of audits they're supposed to do, and do the job that they actually have the power to do on the books right now, and get on with the big business, get on with balancing the budget, get on with passing the education program,

get on with doing the other things that are out there for us to do. And so I'm going to do everything I can to facilitate that.

But it is a decision for the Senate and for the House, and the House to decide how these hearings will proceed and how they will be funded. But I don't think anybody objects to having hearings. We want them to be fair, we want them to be bipartisan, we want them to be balanced, and as I understand it, the big fight in the Senate is, will there be a date certain for ending and will there be a limit to how much is spent.

And let me say this: whatever the hearings produce, in the end, the only real question is, will they produce campaign finance reform. Whatever they produce, will they produce campaign finance reform. I still believe that the only way for the Congress to really deal with this and any questions from the past is to change the system. And we have the McCain/Feingold bill out there, it's a good vehicle, I have endorsed it, I would happily sign it the way it is, but they may want to debate that in some way or another. But the main thing that I want to say again is that there is no excuse for not voting on and passing a good bipartisan campaign finance reform bill this year. There is no excuse. That is the main issue.

THE PRESS: Thank you.

END

9:35 A.M. EST

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 4, 1997

March 4, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Prohibition on Federal Funding
for Cloning of Human Beings

Recent accounts of advances in cloning technology, including the first successful cloning of an adult sheep, raise important questions. They potentially represent enormous scientific breakthroughs that could offer benefits in such areas as medicine and agriculture. But the new technology also raises profound ethical issues, particularly with respect to its possible use to clone humans. That is why last week I asked our National Bioethics Advisory Commission to thoroughly review the legal and ethical issues associated with the use of this technology and report back to me in 90 days.

Federal funds should not be used for cloning of human beings. The current restrictions on the use of Federal funds for research involving human embryos do not fully assure this result. In December 1994, I directed the National Institutes of Health not to fund the creation of human embryos for research purposes. The Congress extended this prohibition in FY 1996 and FY 1997 appropriations bills, barring the Department of Health and Human Services from supporting certain human embryo research. However, these restrictions do not explicitly cover human embryos created for implantation and do not cover all Federal agencies. I want to make it absolutely clear that no Federal funds will be used for human cloning. Therefore, I hereby direct that no Federal funds shall be allocated for cloning of human beings.

WILLIAM J. CLINTON

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