Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	From Jeffrey D Goldstein To Julie T Bosland (2 pages)	10/18/2000	P5

COPY

6035

COLLECTION:
Clinton Presidential Records
Domestic Policy Council
Julie Bosland
OA/Box Number: 21677

FOLDER TITLE:
CS [Child Support]---Program [3]

Rich Sheridan
2012-0440-S
ms471

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]

6035

COPY

Jeffrey D. Goldstein 10/18/2000 04:58:02 PM

Record Type: Record

To: Julie T. Bosland/OPD/EOP@EOP

cc:
Subject: FW: White House Domestic Policy Council Inquiry

Julie --

As we discussed. I have taken out some of the less relevant forwards, etc...

An interesting point made in the memo - if a service member refuses to provide the sample, they are forced out of the military. In the past, the reason for the refusal was concerns over privacy.

Again, please treat this with care.

Thanks
-Jeff

---------- Forwarded by Jeffrey D. Goldstein/OMB/EOP on 10/18/2000 04:55 PM ----------

"Martin, William, LTC, OASD(HA)/TMA" <William.Martin@ha.osd.mil>
10/18/2000 04:11:11 PM

Record Type: Record

To: Jeffrey D. Goldstein/OMB/EOP@EOP

cc:
Subject: FW: White House Domestic Policy Council Inquiry

Mr. Casciotti: FYI, if you and LTC Martin have not yet spoken or corresponded about this.

Bill: There's an additional angle that I know only because Mr. Casciotti told me about it, and that is implicit in COL Smith's memo, namely, that the restrictive rules in DoDD 5154.24 regarding DNA bloodstain cards are the result of DoD assuring Congress in the early to mid 1990s that we would allow only narrow access to these cards, so as to forestall legislation that would have accomplished the same thing or something even more restrictive. Congress was interested because of the hue and cry from service members about privacy and potential misuse of the cards, and because some of the acts of disobedience and courts-martial and civil cases on this issue were percolating around that time. In other words, what we have in 5154.24 today is roughly indicative of Congressional sentiment earlier this decade, and any attempt by the President to liberalize it through executive order could

provoke a reaction from Congress, although perhaps times have changed enough to make that no longer true. Mr. Casciotti can clarify my presentation here as needed, and can provide more and better information about this aspect of the matter if he hasn't already, but I thought maybe you'd want to know this piece of it.

LTC Steve Bross
AFIP Legal Counsel
(202) 782-2124

 - HA Memo 100300.doc

Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	From Marty Lederman To William Marshall (2 pages)	10/12/2000	P5
002. memo	From Director of Legislation To Administrator; RE: personal info [partial] (1 page)	09/19/2000	P6/b(6)

COPY

6036

COLLECTION:
Clinton Presidential Records
Domestic Policy Council
Julie Bosland
OA/Box Number: 21681

FOLDER TITLE:
Substance Abuse and Mental Health Services Administration Reauthorization

Rich Sheridan
2012-0440-S
ms391

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]
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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

6036

9:45 am

COPY

"Lederman, Marty" <Marty.Lederman@usdoj.gov>
10/12/2000 06:18:32 PM

Record Type: Record

To: William Marshall/WHO/EOP@EOP

cc: "Moss, Randolph D" <Randolph.D.Moss@intmail.usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)

Subject: SAMHSA signing statement language

Bill, Paul: Here's what Randy and I have come up with. When you receive our Opinion (which should be tomorrow), you'll see why we are unable to give the unqualified advice that funding may not constitutionally be provided to "pervasively sectarian" organizations. In short, we conclude that, at least with respect to nonmonetary aid, the lesson of the opinions in Helms is that the multi-factor "p.s." test (as well as the "p.s." label) is obsolete, and has, in effect, been replaced with a simple question concerning whether the organization can ensure the segregation necessary to ensure nondiversion of funds -- which, in our view, means no "specifically religious" activities in the funded substance-abuse program. However, when it comes to monetary aid, we concede that there might be a more categorical ban with respect to certain institutions. Our conclusion on that point is the following:

However, when the aid in question is in the form of direct funding, the constitutional question remains somewhat more uncertain. Indeed, in her controlling opinion in Mitchell, Justice O'Connor suggests that a more categorical rule might apply with respect to financial grants to certain religious institutions. In that opinion, Justice O'Connor noted that there are "special dangers associated with direct money grants to religious institutions," and that the "concern with direct monetary aid is based on more than just diversion [of the aid to religious activities]." 120 S. Ct. at 2566; see also id. at 2559-60; Agostini v. Felton, 521 U.S. 203, 228 (1997) (emphasizing that "[n]o Title I funds ever reach the coffers of religious schools"); Mitchell, 120 S. Ct. at 2546-47 (plurality opinion) (acknowledging that "[o]f course, we have seen 'special Establishment Clause dangers,' Rosenberger, 515 U.S., at 842, when money [as opposed to nonmonetary aid] is given to religious schools or entities directly") (emphasis in original). "In fact," Justice O'Connor cautioned, "the most important reason for according special treatment to direct money grants is that this form of aid falls precariously close to the original object of the Establishment Clause's prohibition." Id. at 2566 (O'Connor, J., concurring in the judgment). Thus, while Kendrick holds that the government can provide direct monetary aid to certain religious organizations, it remains unresolved after Mitchell whether there are some sorts of religious institutions, such as churches, to which a government may not provide direct monetary aid under any circumstances.

Given our druthers, we would not label these additional possibly ineligible organizations (which O'Connor has not identified, but which must include, at the very least, churches) "pervasively sectarian." But we understand the desire to retain that phrase in some form. Also, as the passage from our draft Opinion indicates, funding to such organizations definitely raises very serious questions; but we can't say for certain that it's flatly "unconstitutional." Accordingly:

DRAFT

The Department of Justice advises, however, that this provision would be unconstitutional to the extent it were construed to permit governmental funding of organizations that do not or cannot ~~segregate~~ separate their religious activities from the ~~secular~~ substance-abuse treatment and prevention activities that are supported by the SAMHSA aid, and would raise serious constitutional questions to the extent it were construed to permit funding of certain other religious organizations that are pervasively sectarian. Accordingly, I construe the Act as forbidding the funding of such organizations and as permitting Federal,

Marcy Wilder

sectarian w ... or proselytization

State, and local governments involved in disbursing SAMHSA funds to take into account the structure and operations of a religious organization in determining whether such an organization is constitutionally and statutorily eligible to receive funding.