Legislative Issues

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THE WHITE HOUSE

WASHINGTON

February 3, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: **ANN O'LEARY**
RUBY SHAMIR

CC: **MELANNE VERVEER**
SHIRLEY SAGAWA
LISSA MUSCATINE

SUBJECT: **UPDATE ON ECONOMIC PROPOSALS**

The purpose of this memo is to give you a brief overview of the Administration's record on fiscal discipline and some of our major economic proposals for the FY 2001 budget, including saving Social Security, increasing the minimum wage and building on our New Markets initiative from last year.

MAINTAINING FISCAL DISCIPLINE AND ECONOMIC EXPANSION

Maintaining Fiscal Discipline
Currently, we are experiencing the first back-to-back budget surpluses in 42 years. Last year's surplus of $124 billion was the largest in our history and the latest numbers from the Treasury indicate the surplus for this year will be even larger. This surplus is considered even more significant when contrasted with the $209 billion deficit the President inherited when he was elected. In just the last two years, we have already paid down $140 billion of the national debt. Because we have resisted efforts to push our nation off the path of fiscal discipline with large and irresponsible tax cuts, our debt is $1.7 trillion less this year than it was projected to be back in 1993.

The FY 2001 budget accelerates the date that we will be able to pay off our debt to 2013 -- two years earlier than we had originally planned. The President's plan will protect Social Security funds, extend the solvency of the Social Security trust fund, and enable us to make Medicare secure now through 2025. We will be debt-free for the first time since 1835, when our nation had only 24 states and fewer than 15 million people. The President's plan to pay down the debt will result in lower interest rates and stronger investment. For typical families it will mean lower mortgage payments and car payments.

Nearing the Longest Economic Expansion in U.S. History

- America is currently in the longest peacetime expansion in its history. By the end of February, the U.S. will have enjoyed 107 consecutive months of expansion – the longest economic expansion in history.
- Since President Clinton took office in 1993, the economy has created 20.4 million new jobs – the highest number of jobs ever created under a single President. These are overwhelmingly good jobs: according to a study by the Council of Economic Advisers and the U.S. Department of Labor, 81 percent of all new jobs are located in industry/occupation categories that pay above-median wages.
- The vast majority of the new jobs – 18.8 million or 92 percent of the total – were created by the private sector, the highest private sector share of job creation since Harry S. Truman was President.
- The unemployment rate in 1999 fell to 4.2 percent – the lowest rate in 30 years. For African Americans, the unemployment rate fell to 8.0 percent – the lowest on record. For Hispanics, the unemployment rate fell to 6.4 percent – the lowest on record.
- The economy has expanded at 3.8 percent annually under President Clinton – the fastest growth rate of any administration since President Johnson.
- As a result of the strong economy and investments in people, 7.7 million people have been lifted out of poverty under President Clinton. The poverty has fallen to 12.7 percent – the lowest rate since 1979. For African Americans and African American children, the poverty rate is the lowest on record. For Hispanics, the poverty rate is the lowest since 1980. For single mothers, the poverty rate has fallen to the lowest level in history.
- In the third quarter of 1999, the homeownership rate rose to 67.0 percent – the highest rate ever recorded. The homeownership rates for African Americans and Hispanics also reached record levels in 1999.
- The underlying core rate of inflation was 1.9 percent in 1999 – the lowest rate since 1965.

SUPPORTING WORKING FAMILIES AND COMMUNITIES

Protecting and Strengthening Social Security

When the President releases the budget next week, he will include this year's proposal to strengthen Social Security. As he did in 1998 and 1999, the President is calling on Congress to enact his plan to save Social Security first – and strengthen it. Like last year, the President is proposing to reserve the entire Social Security surplus for Social Security and debt reduction. The President's proposal devotes the entire Social Security surplus to paying down the debt held by the public by a projected $2.2 trillion over the next 10 years. Additionally, after a decade of debt reduction from protecting Social Security funds, all the interest savings from this debt reduction will then be reinvested in Social Security, extending its solvency from 2034 to 2050. Projected interest savings for the first five years of the transfer (2011-2015) would be $690 billion. If the interest savings were prudently invested in equities, solvency would be extended to 2054. The Republican so-called "lockboxes" do not transfer interest savings to Social Security and thus do not add a single day to the life of the Trust Fund. Furthermore, because of their exorbitant tax cut proposals, the Republicans would probably end up spending hundreds of billions of dollars of the Social Security surplus.

Expanding the Earned Income Tax Credit (EITC)
The President is calling on Congress to pass his $21 billion plan to expand the Earned Income Tax Credit. Treasury estimates that the President's proposed EITC expansion would deliver tax relief for 6.8 million families, providing up to $1,200 in additional tax relief for some of these hard-pressed, working families. The President's proposal would build on the EITC expansion that he signed into law in 1993 which provided a tax cut for 15 million families. That expansion made the EITC even more effective at encouraging work and reducing poverty: In 1998, 4.3 million people were directly lifted out of poverty by the EITC – more than double the number in 1993.

The President's proposal would:
- ***Expand the Maximum Credit for Working Families with Three or More Children By $500.*** This would provide a tax break for 2.1 million low- and moderate-income working families. This expansion is targeted at the highest concentration of child poverty: in 1998 the poverty rate for children in families with three or more related children was 28.5 percent -- more than twice the 11.9 percent poverty rate for children in families with one or two related children.
- ***Expand the Credit for Married, Two-Earner Couples.*** This would benefit over 1.3 million married filers. For married, two-earner couples, this provision by itself would provide an average tax break of $250.
- ***Increase the Reward to Work While Expanding the Credit for Families with Two or More Children.*** This would provide an additional tax break, and an additional incentive to work, for families with two or more children by lowering the phase-out rate to give more rewards to families struggling to work their way into the middle class.
- ***Encourage Savings Through Simplification.*** Currently, when a working family contributes to a 401(k) they may see their EITC reduced. This proposal encourages savings and simplifies the calculation of earned income for the purposes of the EITC.

Simplifying Taxes and Rewarding Marriage and Work
The FY01 budget includes the President's proposal to reduce the marriage penalty for married, two-earner couples by increasing the standard deduction by nearly $2,000. The President will propose to increase the standard deduction for two-earner married couples to twice that of single filers, providing substantial tax relief for 9.1 million families. The President would provide an additional $500 increase in the standard deduction for single-earner married couples that do not face a marriage penalty. He would also increase the standard deduction for single filers by $250. The President's plan would cost $45 billion over 10 years and benefit 42.1 million families.

Yesterday, the House Ways and Means Committee approved a $182 billion marriage penalty relief bill on a party line vote. The bill would raise the standard deduction for married people, expand the income bracket for couples that would be subject to the lowest tax rate of 15 percent, and make more couples eligible for the Earned Income Tax Credit. The committee voted, 23 to 13, along party lines, with many Democrats, including Ranking member Rangel, saying that it was too expensive a proposal to accept without first figuring out its ramifications in the context of the larger budget, and the White House and Treasury have indicated support for a more modest approach. Democrats also pointed out that nearly half of the tax relief provided by the bill would benefit people who have no increased tax liability due to marriage.

Minimum Wage Increase
The President is calling on Congress to pass a $1 increase in the minimum wage, the same proposal as last year. A working parent with two children earning the minimum wage in 1993 made $10,559 with the EITC (in 1998 inflation-adjusted dollars) – well below the poverty line. As a result of the expanded EITC and higher minimum wage, a similarly situated family in 1998 was above the poverty line – making $13,268 – a 26 percent inflation-adjusted increase in their standard of living. As you know, the President's challenge to build on the success of these policies by raising the minimum wage by $1 would help 11.4 million Americans – 70 percent of whom are adults and 59 percent of whom are women.

Yesterday, the Senate passed the Bankruptcy Reform Bill. Although the Administration does not have a veto threat on the substantive bankruptcy provisions of the Senate bankruptcy bill, we strongly object to the minimum wage and tax amendment that was attached to the bill on the floor. This amendment would raise the minimum wage by $1.00 over three years and provide $18.4 billion in tax cuts over five years. The amendment also includes a provision that would undermine overtime pay for hourly employees by excluding bonuses and commissions from the rate of pay used to determine overtime pay.

The New Markets Initiative
As you know, last year's final budget included some funding for a number of New Markets programs. For FY01, the President is proposing to expand the New Markets Initiative to spur $22 billion in new capital investment in businesses in these economically distressed areas through a package of tax credits and loan guarantees. The proposal includes: more than doubling the New Markets Tax Credit to spur $15 billion dollars in new investment in community development in economically distressed areas; expanded Empowerment Zone Tax Incentives to extend and improve economic growth in the 31 existing urban and rural Empowerment Zones; fully funding America's Private Investment Companies (APICs), which would provide guaranteed debt to private investment companies to help leverage private equity capital and lower the cost of capital for investments in low- and moderate-income communities; expanding the New Market Venture Capital Firms (NMVCs) which provide both long-term growth capital and expert guidance to entrepreneurs who need both in order to transform their small businesses and great ideas into thriving companies. APICs and NMVCs received some funding last year, but still require the passage of authorizing legislation.

Additionally, the proposal calls for increasing the funding for SBA's microenterprise lending program; funding PRIME -- a program providing technical assistance to low-income entrepreneurs; boosting CDFI funding; expanding support for BusinessLINC to encourage large businesses to work with small businesses in new markets; and establishing a New Markets University Partnerships pilot project which, under the auspices of HUD, would provide Universities with funding to develop local community partnerships, assistance to intermediaries, and technical and business development assistance to new and existing firms. The President is also proposing a comprehensive initiative to reduce poverty in the Mississippi Delta and additional funding to expand the New Markets initiative to Indian Country.

The Republicans have pledged to work with us on New Markets. Representatives Watts and Talent have developed a Republican proposal called the American Community Renewal Act which mirrors our proposal in some significant ways.

From Digital Divide to Digital Opportunity

As you know, there is strong evidence of a "digital divide" – unequal access to technology by income, education level, race, and geography. To address this troubling trend, the President yesterday announced that his budget will include $2 billion in tax incentives over 10 years to encourage private sector donation of computers, sponsorship of community technology centers, and technology training for workers; $150 million to help train all new teachers entering the workforce to use technology effectively; $100 million to create 1,000 Community Technology Centers in low-income urban and rural neighborhoods; $50 million for a public/private partnership to expand home access to computers and the Internet for low-income families; $45 million to promote innovative applications of information and communications technology for under-served communities; $25 million to accelerate private sector deployment of broadband networks in under-served urban and rural communities; and $10 million to prepare Native Americans for careers in Information Technology and other technical fields.

Also, you should know that together with America's Promise, AOL, the YMCA and others, AmeriCorps*VISTA is deploying up to 400 members to work in schools, local YMCA's, Boys and Girls Clubs and community technology centers across the country. This effort, called PowerUP, is a major public-private effort to help ensure that America's underserved young people acquire the skills, experiences and resources they need to succeed in the digital age. AOL, Gateway, Sun Microsystems and other corporate partners have pledged more than $10 million to this effort.

Strengthening the Farm Safety Net

As the President has noted on numerous occasions since its passage, the 1996 Farm Bill fails to provide America's farmers with an adequate safety net. As prices have remained depressed for the past two years, the Federal government has provided over $15 billion in emergency assistance. In order to provide American farmers and ranchers with the critical assistance that they need and deserve, the President's budget includes $11 billion to strengthen the farm safety net until the next farm bill in 2002, with three key components: conservation, supplemental income assistance, and crop insurance. The FY01 budget includes:

- $1.3 billion to help family farmers take steps to protect water quality and the environment and to preserve farmland, including $600 million for a new conservation security program that will assist farmers who voluntarily adopt comprehensive plans to curb erosion and protect water supplies from pesticide and nutrient runoff.
- $3.1 billion for a new targeted supplemental income assistance program that will provide payments to producers whose farm revenue falls more than 92 percent below its 5-year average.
- $640 million to subsidize the cost of crop insurance premiums, to allow farmers to purchase higher levels of coverage than are included in the basic catastrophic coverage.

Ensuring Equal Pay
The President's FY01 budget will include a $27 million Equal Pay Initiative, an increase of $12 million over FY 00. The Initiative requests $10 million for the Equal Employment Opportunity Commission (EEOC) to provide training and technical assistance to about 3,000 employers on how to comply with equal pay requirements and to launch a public service announcement campaign on wage issues; $10 million for the Department of Labor (DOL) to train women in nontraditional jobs, including high-tech jobs and other skill shortage occupations; and $7 million for DOL to help employers assess and improve their pay policies, support public education efforts, provide for projects in non-traditional apprenticeships, and implement industry partnerships.

Retirement Savings Accounts To Help Families Save and Invest
The President's Retirement Savings Accounts (RSAs) proposal will give 76 million Americans the opportunity to build wealth and save for their retirement through a progressive tax cut. The President's proposal builds on the successful model of Individual Development Accounts (IDAs), extending generous matches to all low- and moderate-income families to encourage them to develop savings and assets. Workers between the ages of 25 and 60 with family earnings of at least $5,000 are eligible to receive matching contributions. When fully phased in, eligibility for matching contributions extends to couples with incomes of up to $80,000 and single filers with incomes up to $40,000. A person who participated for 40 years in this savings program could accumulate over $266,000 – enough to produce $24,000 a year of income in retirement. This proposal would cost $54 billion over 10 years.

Expanding Pension Coverage for Small Businesses
Currently only 18 percent of workers employed at organizations with fewer than 25 workers have access to pensions through their current job. In an effort to expand pension coverage, the President will offer businesses with up to 100 employees a tax credit that will pay for 50 percent of the qualified contributions made by small businesses to the pension plans -- 401(k)-type or defined benefit -- of non highly-compensated employees for three years. Those plans would have to provide pension benefits equivalent to at least 1 percent of pay for non-highly compensated employees who work at least halftime. Small employers would receive an additional credit for the administrative costs of starting a new plan and educating employees about retirement. This provision would cost $17 billion over 10 years.

February 7, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: ANN O'LEARY

CC: MELANNE VERVEER

SUBJECT: PRESCRIPTION DRUGS

The purpose of this memo is to highlight the problem of prescription drug pricing in New York by calling to your attention a report prepared for Rep. Louise Slaughter as part of the investigation of prescription drug price discrimination conduced by the House Committee on Government Reform. In addition, I have included background information on the Administration's prescription drug proposal and the legislative proposals currently on the Hill.

Report on Extent of Problem in New York

In 1998, the Government Reform Committee began an investigation of drug companies' pricing practices and their impact on senior citizens without prescription drug coverage. The study included reports from over 140 Congressional districts, including the 28th Congressional District of New York (Rep. Slaughter's district). The study investigated the five brand name drugs with the highest sales to the elderly. It estimates the differential between the price charged to the drug companies' most favored customers, such as large insurance companies and HMOs, and the price charged to seniors. The major findings of the study include:

- Senior citizens pay more than twice as much for these drugs than do the drug companies' most favored customers;
- Price differentials are far higher for drugs than they are for other goods – the price differential for the prescription drugs included in the study was 109%, while for other items it was only 22%;
- Pharmaceutical manufacturers, not drug stores, appear to be responsible for the discriminatory prices that older Americans pay for prescription drugs. The study compared average wholesale prices that pharmacies pay for drugs to the prices at which the drugs are sold to consumers. The comparison revealed that New York pharmacies appear to have relatively small markups between buying the drugs and selling them to customers.

Administration's Proposal

The President's budget includes a comprehensive plan to reform and modernize Medicare. As part of this package, the Administration proposes to modernize benefits including adding a long overdue, voluntary prescription drug benefit. The proposed prescription drug benefit would be voluntary, available and affordable to all beneficiaries, including low-income beneficiaries who would pay low to no costs for coverage. For most beneficiaries, the benefit would cost $26 per month in the first year (and rise to approximately $50 per month by 2009). Beneficiaries would pay no deductible and, when fully phased-in, would cover expenses up to $5,000. It would be administered by private organizations like pharmaceutical benefit managers (PBMs) and would give financial incentives to employers who currently offer retiree prescription drug benefits to maintain coverage. Finally, a reserve fund would be created for debt reduction or, if there is bipartisan consensus, to strengthen the Administration's drug benefit by adding protections against the cost of catastrophic drug expenses.

To date, the Administration has not come out in support of the Dorgan-Snowe International Drug-Parity Act. We have only commented on the bill behind the scenes by urging for adequate funding for the FDA to develop and implement quality controls for the prescription drugs re-entering the U.S. Instead, we have urged for a prescription drug package that would work to solve the problem of over-priced prescription drugs and the problem of the lack of coverage by Medicare rather than focusing on the political ploy of bringing prescription drugs back into the States.

Legislative Background

The Hill is tackling the prescription drug problem within three distinct areas: (1) expanding prescription drug coverage (2) reducing prices of prescription drugs (3) international drug parity/re-importation of prescription drugs.

Expanding Prescription Drug Coverage

Congressmen Stark and Dingell and Senators Kennedy and Rockefeller have introduced a more expensive and comprehensive but complicated prescription drug benefit. While promising front end and catastrophic coverage, it leaves seniors with drug costs of $1,500 to $3,200 exposed and vulnerable. With a 75 percent premium subsidy, our actuaries estimate that it costs nearly $300 billion over 10 years (compared to our $116 billion).

Reducing Prices of Prescription Drugs

Congressmen Allen, Waxman, Turner, and Berry have introduced legislation (the "Allen bill") that would require pharmacists serving seniors to provide them with access to the same discounts they provide to Federal and corporate purchasers. This policy is viewed by the drug industry as straight-up price controls, and this criticism has been validated by a number of businesses, insurers, and elite policy validators. Congressman Allen, a "New Democrat" from Maine, counters that this policy is not price controls, since the drug industry can choose the level of discounts it provides to large purchasers and thus the discount provided to Medicare beneficiaries through their local pharmacists. The bill, which has a broad based collection of Democratic sponsors (over 130 sponsors including Blue Dogs, New Dogs, and traditional liberals), is not going anywhere and has very few advocates in the Senate, but is attractive to many because there are no new Federal costs since it provides no new insurance coverage; rather, it simply requires access to discounts that are currently unavailable.

Congresswoman Thurman recently offered a version of the Allen bill during the Ways and Means markup of the BBA provider giveback legislation. It was rejected along party lines with subcommittee Chair Thomas arguing that this was the wrong vehicle to use for broad Medicare reform. (Parenthetically, Mr. Thomas does not appear to have problems with including GMNE reforms, which have nothing to do with the BBA and are harmful to New York teaching hospitals, in the package to submitted to the floor last week.)

International Drug Parity/Re-Importation of Prescription Drugs

Senators Dorgan and Snowe have introduced bi-partisan legislation that would permit the re-importation of prescription drugs from Canada to pharmacies in the United States in order to access the discounts that Canadian pharmacists receive. The FDA has raised strong safety concerns about this legislation, but it can be cited as an example of the frustration members of Congress and the public at large are having with the price differentials between drugs sold in Canada and the United States, even though these medications were initially manufactured in this country.

Other Legislative Proposals

Numerous other prescription drug initiatives have either been unveiled or suggested by members of Congress. Senators Wyden and Snowe have introduced legislation to provide subsidies for HMOs and Medigap plans to offer prescription drug coverage. (We have criticized this legislation because it is a block grant approach that undermines Medicare's guarantee of coverage and does not provide for a workable fee-for-service benefit, thus making access to affordable prescription drugs impossible for millions of beneficiaries living in rural communities.)

In November, Senators Breaux and Frist offered a prescription drug benefit in the context of broader Medicare reforms; their plan includes a Medicaid benefit for beneficiaries up to 150 percent of the poverty level. (We have criticized this benefit as inadequate because over half of the seniors without prescription drug coverage have incomes over 150 percent of the poverty level.)

The Republican tax package included a tax deduction to offset the cost of prescription drug insurance for seniors. This proposal was widely criticized because the seniors who most need the drug benefit do not file taxes and would not be eligible for the tax deduction, and because the proposal does nothing to make affordable insurance more accessible.

FREQUENTLY ASKED QUESTIONS
ABOUT THE INTERNATIONAL PRESCRIPTION DRUG PARITY ACT
S. 1191

Introduced in the Senate by Senator Byron L. Dorgan (D-ND), along with Senators Olympia Snowe (R-ME), Paul Wellstone (D-MN), and Tim Johnson (D-SD)

What does the International Prescription Drug Parity Act do?
The bill would allow U.S. consumers access to lower priced prescription drugs by allowing their pharmacists to import prescription drugs into the United States. These are the same drugs available in the United States, manufactured by the same company, frequently made in the same plant, and sold under the same ~~brand name.~~

This would address the absurd situation where American consumers are paying substantially higher prices for their prescription drugs than are the citizens of Canada, Mexico, and other countries. The International Prescription Drug Parity Act amends the Federal Food, Drug, and Cosmetic Act to allow American pharmacists and distributors to import prescription drugs into the United States *as long as they are approved by the U.S. Food and Drug Administration and manufactured at FDA-inspected facilities*. Pharmacists and distributors will be able to purchase these drugs at lower prices and then pass the huge savings along to American consumers.

Why is this bill needed?
Under federal law, pharmaceutical companies and individual consumers are the only ones allowed to import drugs approved by the U.S. Food and Drug Administration into this country.

Yet, if an American pharmacist or distributor wants to purchase these FDA-approved drugs at the much-lower prices available in other countries and pass the savings along to their customers, they are prohibited by law from doing so. The irony is that many of these drugs are made in our country and shipped to pharmacists and distributors in other countries for sale at lower prices there, but American pharmacists and distributors cannot reimport these drugs made in the United States back into this country. We need to amend current federal law to allow pharmacists and distributors to buy drugs, which are approved for sale in the United States, from other countries to take advantage of the lower prices available there. This is a common-sense thing to do. It is pro-business, pro-consumer and pro-American.

What is the price difference between prescription drugs sold in the United States and other countries?
A number of studies over the past decade, as well as anecdotal evidence, confirms that there is a significant price difference for drugs between the United States and other countries. For instance, a 1999 review by Senator Dorgan's office of a dozen of the most commonly used prescription drugs revealed that North Dakota consumers pay, on average, 205% more than their Canadian counterparts. Similarly, a study by the National Council of Senior Citizens of the top 10 prescription drugs used by older Americans found that in every instance, U.S. citizens were paying significantly more for the same drugs than Canadian and Mexican consumers. A U.S.

General Accounting Office study in 1991 studied 121 drugs and found that, on average, they cost 32 percent higher than the same products in Canada.

In fact, the following chart shows that the same drug that costs a senior citizen in the United States $1.00 costs seniors in other countries a fraction of that price:

Country	Price
United States	$1.00
Germany	$0.71
Sweden	$0.68
United Kingdom	$0.65
Canada	$0.64
France	$0.57
Italy	$0.51

Who supports the International Prescription Drug Parity Act?
This bill has been endorsed by Families USA, Public Citizen, the National Community Pharmacists Association, and the North Dakota Pharmaceutical Association.

Who opposes the International Prescription Drug Parity Act?
As one would expect, the bill is opposed by the pharmaceutical manufacturing industry.

What are some of the claims the big drug companies make about this legislation?
One claim that the pharmaceutical companies make is that this legislation could cut into the amount they spend on research. However, only about 20 cents of each prescription drug dollar is spent on research and development – about the same as the manufacturers spend on advertising and marketing – and even less (between 5 and 25 cents) is spent on actual production of the drug.

The fact is that profits exceed research costs at the top ten U.S. drug companies. Pharmaceutical companies' after-tax profits averaged 17 percent from 1994 to 1998, compared with 5 percent for all other industries, according to a December, 1999, report from the non-partisan Congressional Research Service (CRS).

In addition, American taxpayers heavily subsidize pharmaceutical research. For instance, in 1996 alone, the pharmaceutical industry was able to reduce its tax liability by $3.8 billion using a variety of tax credits. As a result, according to the CRS, drugmakers pay significantly less in taxes than other industries: The average effective tax rate for pharmaceutical companies was 16.2 percent from 1993 to 1996, compared to the average effective tax rate of 27.3 percent for all other major industries.

Another popular claim of the pharmaceutical industry is that this bill would import other countries' price controls. The International Prescription Drug Parity Act merely extends the benefits of free trade to buyers of prescription drugs. Drug manufacturers already benefit from free trade by buying the ingredients for their products at the lowest prices on the world market, and in fact, many of the ingredients they use can be imported free of tariffs. This bill would merely enable American consumers to make the global economy work for them, too.

The truth is that drug companies do not set U.S. prices to cover research costs, they set them to maximize profits. They can set drug prices at extraordinary levels in our country because current law protects them from competition.

Claims vs. Facts
The International Prescription Drug Parity Act
(S. 1191/H.R. 1885)

CLAIM: *The FDA opposes the bill.*

FACT: The FDA has not taken a position on this bill. A National Public Radio story aired in July incorrectly reported that FDA opposes this legislation, and NPR later issued a correction at FDA's request. The legislation's authors consulted closely with the FDA in drafting S.1191/H.R. 1885 and incorporated many of its suggestions into the legislation that was introduced.

Dr. Jane Henney, the current FDA Commissioner, has expressed concern about the current situation whereby individual American consumers are traveling to foreign countries and bringing back prescription drugs – sometimes without even a prescription and without any assurance that the drugs are being properly stored or transported. S. 1191/H.R. 1885 would help to eliminate the need for patients to travel to other countries to get more affordable medications by allowing their pharmacists to do so under more controlled conditions.

CLAIM: *The legislation will reduce pharmaceutical research.*

FACT: Pharmaceutical manufacturers say that this legislation could cut into the amount they spend on research. What they don't mention is their extraordinary profit margins – the industry's 18% average profit margin was recently described by the *Wall Street Journal* as the "envy of the corporate world." Perhaps the manufacturers' claims would be believable if drug companies actually devoted a substantial share of their revenue to research. However, only about 20 cents of each prescription drug dollar is spent on research and development, and even less – between 5 and 25 cents – is spent on actual production of the drug. And the fact is that profits exceed research costs at the top ten U.S. drug companies.

Research and the resulting new miracle drugs cannot help American patients if they cannot afford them. Of course, pharmaceutical manufacturers perform important and life-saving research that should not be jeopardized but nor should Americans subsidize the drug R&D for the entire world.

CLAIM: *Savings realized by pharmacists and wholesalers will not be passed along to consumers.*

FACT: The pharmacy marketplace is highly competitive. Community pharmacies generally have modest gross margins and low profits. In addition, their customers who do not have insurance coverage for prescription drugs are extremely price sensitive and will take their business to mailorder companies or elsewhere if the lower prices are not passed on. As a result, pharmacists will have little choice but to pass the lower costs on to their customers.

CLAIM: *The bill poses health and safety risks because it will allow prescription drugs to be adulterated or become subpotent during foreign handling.*

FACT: Drugs are already frequently imported into this country. However, only manufacturers are allowed to reimport prescription drugs which were made in the United States. S. 1191/H.R. 1885 applies only to drugs that have been approved by the Food and Drug Administration (FDA) and made at FDA-approved facilities using "good manufacturing practices." In addition, the pharmacists and wholesalers who would be able to import drugs into the U.S. under S.1191/H.R. 1885 would have to meet the same stringent standards for quality shipment and storage already in place for manufacturers.

CLAIM: *The bill imports other countries' price controls.*

FACT: This bill merely extends the benefits of free trade to buyers of prescription drugs. Drug manufacturers already benefit from free trade by buying the ingredients for their products at the lowest prices on the world market, and in fact, many of the ingredients they use can be imported free of tariffs. Our bill would merely enable American consumers to make the global economy work for them, too.

According to the legislation's opponents, prescription drugs are less expensive in other countries because those countries' governments keep prices artificially low, not because U.S. prices are unreasonably high. If pharmaceutical companies really are unable to achieve a profit in those other countries, one would reasonably expect them not to compete in those markets. Obviously, this is not the case.

Even if one is willing to agree that U.S. consumers should subsidize lower prices and pharmaceutical research for the rest of the world, this implies that there is a correlation between the cost of research and prescription drug prices that just does not exist in reality. For example, the cancer drug Taxol is marketed at a wholesale price of nearly 20 times its manufacturing cost, even though the drug was largely developed and tested by the National Institutes of Health, not by the manufacturer, at a cost to American taxpayers of $30 million.

The truth is that drug companies do not set U.S. prices to cover research costs, they set them to maximize profits. They can set drug prices at extraordinary levels in our country because current law protects them from competition.

CLAIM: *The legislation won't do anything to ensure drug coverage for Medicare beneficiaries who could still have difficulty paying for their medicines even if the bill were enacted.*

FACT: True. But the legislation will make such coverage more feasible and affordable. About 19 million elderly Americans have little or no prescription drug coverage, and more than 2 million older Americans pay more than $100 a month for their medication. S. 1191/H.R. 1885 would save these senior citizens an average of 34 percent.

A prescription drug benefit for Medicare beneficiaries would be more affordable for our nation if Americans were charged wholesale prices comparable to those charged for the same drugs in Canada. According to one study, our nation would save more than $16 billion annually if we could buy medications at the Canadian prices – money which could be used to provide help to Americans who are currently without prescription drug coverage.

Prescription Drug Pricing in the 28th Congressional District of New York: Drug Companies Profit at the Expense of Older Americans

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Prepared for Rep. Louise McIntosh Slaughter

Minority Staff Report
Committee on Government Reform and Oversight
U.S. House of Representatives

November 4, 1998

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EXECUTIVE SUMMARY

This staff report was prepared at the request of Rep. Louise McIntosh Slaughter of New York. In Ms. Slaughter's district, as in many other congressional districts around the country, older Americans are increasingly concerned about the high prices that they pay for prescription drugs. Ms. Slaughter requested that the minority staff of the Committee on Government Reform and Oversight investigate this issue.

Numerous studies have concluded that many older Americans pay high prices for prescription drugs and have a difficult time paying for the drugs they need. This study presents new and disturbing evidence for the cause of this difficulty. The findings indicate that older Americans and others who pay for their own drugs are charged far more for their prescription drugs than are the drug companies' most favored customers, such as large insurance companies and health maintenance organizations. The findings show that a senior citizen in Ms. Slaughter's district paying for his or her own prescription drugs must pay, on average, more than twice as much for the drugs as the drug companies' favored customers. The study found that this is an unusually large price differential -- almost five times greater than the average price differential for other consumer goods.

It appears that drug companies are engaged in a form of "discriminatory" pricing that victimizes those who are least able to afford it. Large corporate and institutional customers with market power are able to buy their drugs at discounted prices. Drug companies then raise prices for sales to seniors and others who pay for drugs themselves to compensate for these discounts to their favored customers.

Older Americans are having an increasingly difficult time affording prescription drugs. By one estimate, more than one in eight older Americans has been forced to choose between buying food and buying medicine. A case study in Ms. Slaughter's congressional district illustrates these hardships. Preventing the pharmaceutical industry's discriminatory pricing -- and thereby reducing the cost of prescription drugs for seniors and other individuals -- will improve the health and financial well-being of millions of older Americans.

A. Methodology

This study investigates the pricing of the five brand name drugs with the highest sales to the elderly. It estimates the differential between the price charged to the drug companies' most favored customers, such as large insurance companies and HMOs, and the price charged to seniors. The results are based on a survey of retail prescription drug prices in chain and independently owned drug stores in Ms. Slaughter's congressional district in New York. These prices are compared to the prices paid by the drug companies' most favored customers. For comparison purposes, the study also estimates the differential between retail prices and prices for favored customers for other consumer items.

B. Findings

The study finds that:

- **Older Americans pay inflated prices for commonly used drugs**. For the five drugs investigated in this study, the average price differential was 109% (Table 1). This means that senior citizens and other individuals who pay for their own drugs pay more than twice as much for these drugs than do the drug companies' most favored customers.

Table 1: Average Retail Prices for the Five Best-Selling Drugs for Older Americans in New York Are More Than Twice as High as the Prices That Drug Companies Charge Their Most Favored Customers.

Prescription Drug	Manufacturer	Use	Prices For Favored Customers	Retail Prices For New York Senior Citizens	Price Differential For New York Senior Citizens
Zocor	Merck	Cholesterol	$42.95	$109.36	155%
Prilosec	Astra/Merck	Ulcers	$56.38	$118.75	111%
Procardia XL	Pfizer Inc.	Heart Problems	$67.35	$133.89	99%
Norvasc	Pfizer Inc.	High Blood Pressure	$58.83	$116.08	97%
Zoloft	Pfizer Inc.	Depression	$123.88	$225.78	82%
Average Price Differential					109%

- **For other popular drugs, the price differential is even higher.** This study also analyzed a number of other popular drugs used by older Americans, and in some cases found even higher price differentials (Table 2). The drug with the highest price differential was Synthroid, a commonly used hormone treatment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in New York was 1,511%. An equivalent dose of this drug would cost the favored customers only $1.75, but would cost the average senior citizen in New York over $28.00. For Micronase, a diabetes treatment manufactured by Upjohn, an equivalent dose would cost the favored customers $10.05, while seniors in New York are charged $44.58. The price differential was 344%.

Table 2: Price Differentials for Some Drugs Are Over 1,400%.

Prescription Drug	Manufacturer	Use	Prices for Favored Customers	Retail Prices for New York Senior Citizens	Price Differential for New York Senior Citizens
Synthorid	Knoll Pharmaceuticals	Hormone Treatment	$1.75	$28.20	1511%
Micronase	Upjohn	Diabetes	$10.05	$44.58	344%

- **Price differentials are far higher for drugs than they are for other goods.** This study compared drug prices at the retail level to the prices that the pharmaceutical industry gives its most favored customers, such as large insurance companies and HMOs. Because these customers typically buy in bulk, one would expect that there would be some difference between retail prices and "favored customer" prices. However, the study found that the differential was much higher for prescription drugs than it was for other consumer items. The study compared the price differential for prescription drugs to the price differentials on a selection of other consumer items. The average price differential for the five prescription drugs was 109%, while the price differential for other items was only 22%. Compared to manufacturers of other retail items, pharmaceutical manufacturers appear to be engaging in significant price discrimination against older Americans and other individual consumers.

- **Pharmaceutical manufacturers, not drug stores, appear to be responsible for the discriminatory prices that older Americans pay for prescription drugs.** In order to determine whether drug companies or retail pharmacies were responsible for the high prices being paid by seniors in Ms. Slaughter's congressional district, the study compared average wholesale prices that pharmacies pay for drugs to the prices at which the drugs are sold to consumers. This comparison revealed that New York pharmacies appear to have relatively small markups between the prices at which they buy prescription drugs and the prices at which they sell them. The retail prices in New York are only 2% higher than the published national Average Wholesale Price. The differential between retail prices and a second indicator of pharmacy costs, the prices from one wholesaler, is still only 27%. This indicates that it is drug company pricing policies that appear to account for the inflated prices charged to older Americans and other customers.

I. THE VULNERABILITY OF OLDER AMERICANS TO HIGH DRUG PRICES

This report focuses on a continuing, critical issue facing older Americans -- the cost of their prescription drugs. Numerous surveys and studies have concluded that many older Americans pay high costs for prescription drugs and are having a difficult time paying for the drugs they need. The cost of prescription drugs is particularly important for older Americans because they have more medical problems, and take more prescription drugs, than the average American. This situation is exacerbated by the fact that the Medicare program, the main source of health care coverage for the elderly, fails to cover the cost of most prescription drugs.

According to the National Institute on Aging, "as a group, older people tend to have more long-term illnesses -- such as arthritis, diabetes, high blood pressure, and heart disease -- than do younger people."[1] Other chronic diseases which disproportionately affect older Americans include depression and neurodegenerative diseases such as Alzheimer's disease, Lou Gehrig's disease, and Parkinson's disease.

Older Americans spend almost three times as much of their income (21%) on health care than those under the age of 65 (8%),[2] and more than three-quarters of Americans aged 65 and over are taking prescription drugs.

The average older American is presently taking 2.4 prescription drugs.[3] More importantly, older Americans take significantly more drugs on average than the under-65 population.[4] It is estimated that the elderly in the United States, who make up 12% of the population, use one-third of all prescription drugs.[5]

Although the elderly have the greatest need for prescription drugs, they often have the most inadequate insurance coverage for the cost of these drugs. A 1996 AARP survey indicated

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[1] National Institute on Aging (NIA), NIA Age Page (www.nih.gov/nia/health/pub/medicine.htm).

[2] AARP Public Policy Institute and the Lewin Group, *Out of Pocket Health Spending By Medicare Beneficiaries Age 65 and Older: 1997 Projections* (February 1997).

[3] AUS/ICR for the American Association of Retired Persons, National Pharmaceutical Council, and Pharmaceutical Executive Magazine, *Survey on Prescription Drug Issues and Usage Among Americans Aged 50 and Older,* I (May 1996).

[4] Senate Special Committee on Aging, *Developments In Aging: 1996*, 1 S. Rep. 36, 105th Cong., 1st Sess. 121 (1997).

[5] Senate Special Committee On Aging, *Developments in Aging: 1993*, 1 S. Rep. 403, 103d Cong., 2d Sess. 35 (1994).

that 37% of older Americans do not have insurance coverage for prescription drugs.[6] As a result, many older Americans -- a large percentage of whom live on a limited, fixed income -- are forced to pay the full, out-of-pocket expense of prescription drugs.

The primary reason for this burden is that, with the exception of drugs administered during in-patient hospital stays, Medicare generally does not cover prescription drugs. While Medicare managed care plans may offer optional prescription drug coverage, they are available only as an option subject to the discretion and fiscal priorities of the health plans. Moreover, these Medicare managed plans currently serve only a small portion of the Medicare population.

Although Medicare beneficiaries can purchase supplemental "Medigap" insurance privately, these policies are often prohibitively expensive or inadequate. For example, one of the standardized Medigap policies available provides a $3,000 drug benefit, but still leaves beneficiaries vulnerable to a high deductible and requires beneficiaries to pay at least half of their total drug costs.[7]

Medicare beneficiaries without public or private prescription drug coverage are the group at most risk of high out-of-pocket prescription drug costs. According to the Senate Special Committee on Aging, this group includes those "who are not poor enough to receive Medicaid, do not have employer-based retiree prescription drug coverage, and cannot afford any other private prescription drug insurance plans."[8]

The high costs of prescription drugs, and the lack of insurance coverage, directly affect the health and welfare of older Americans. In 1993, 13% of older Americans surveyed reported that they were forced to choose between buying food and buying medicine.[9] By another estimate, five million older Americans are forced to make this difficult choice.[10]

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[6] AARP Public Policy Institute and the Lewin Group, *supra* note 2.

[7] Families USA Foundation, *Worthless Promises: Drug Companies Keep Boosting Prices* 6 (March 1995).

[8] Senate Report 36, *supra* note 4, at 122.

[9] Families USA Foundation, *supra* note 7, at 6.

[10] Senate Special Committee on Aging, *A Status Report -- Accessibility and Affordability of Prescription Drugs For Older Americans*, S. Rep. 100, 102d Cong., 2d Sess. 2 (1992).

II. ARE DRUG COMPANIES EXPLOITING THE VULNERABILITY OF OLDER AMERICANS?

Rep. Louise McIntosh Slaughter of New York asked the minority staff of the Committee on Government Reform and Oversight to investigate whether pharmaceutical manufacturers are taking advantage of older Americans through price discrimination, and, if so, whether this is part of the explanation for the high drug prices being paid by older Americans in her congressional district. This report presents the results of this investigation.

Industry analysts have recognized that price discrimination occurs in the prescription drug market. According to a recent *Standard & Poor's* report on the pharmaceutical industry, "[d]rugmakers have historically raised prices to private customers to compensate for the discounts they grant to managed care customers. This practice is known as 'cost shifting.'"[11] Under this practice, "drugs sold to wholesale distributors and pharmacy chains for the individual physician/patient are marked at the higher end of the scale."[12]

Although industry analyses acknowledge that price discrimination occurs, they have not estimated its degree or impact. This report, prepared at Ms. Slaughter's request, attempts to quantify the extent of price discrimination and its impact on senior citizens in New York.

The study design and methodology used to test whether drug companies are discriminating against older Americans in their pricing is described in part III. The results of the study are described in part IV. These results show that drug manufacturers appear to be engaged in substantial price discrimination against older Americans and other individuals who must pay for their own prescription drugs. The consequences of the manufacturers' pricing policies are discussed in part V.

III. METHODOLOGY

A. Selection of Drugs for This Survey

This survey is based primarily on a selection of the five patented, non-generic drugs with the highest annual sales to older Americans in 1997. The list was obtained from the Pennsylvania Pharmaceutical Assistance Contract for the Elderly (PACE). The PACE program is the largest outpatient prescription drug program for older Americans in the United States for which claims data is available, and is used in this study, as well as by several other analysts, as a proxy database for prescription drug usage by all older Americans. In 1997, over 250,000

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[11] Herman Saftlas, Standard & Poor's, *Healthcare: Pharmaceuticals,* Industry Surveys 19-20 (December 18, 1997).

[12] *Id.* at 19.

persons were enrolled in the program, which provided over $100 million of assistance in filling over 2.8 million prescriptions.[13]

B. Determination of Average Retail Drug Prices for Seniors in New York

In order to determine the prices that the elderly are paying for prescription drugs in New York, the minority staff and the staff of Ms. Slaughter's congressional office conducted a survey of eight drug stores -- including three independent and five chain stores -- in Ms. Slaughter's congressional district. Ms. Slaughter represents the 28th district of New York, which includes Rochester and surrounding communities. The location of the stores is shown in Appendix D.

C. Determination of Prices For Drug Companies' Most Favored Customers

Drug pricing is complicated and drug companies closely guard their pricing strategies. The best publicly available indicator of the prices companies charge their most favored customers, such as large insurance companies and HMOs, is the Federal Supply Schedule (FSS).

The FSS is a price catalog containing goods available for purchase by federal agencies. Drug prices on the FSS are negotiated by the Department of Veterans Affairs. The prices on the FSS closely approximate the prices that the drug companies charge their most favored nonfederal customers. According to the U.S. General Accounting Office, "[u]nder GSA procurement regulations, VA contract officers are required to seek an FSS price that represents the same discount off a drug's list price that the manufacturer offers its most-favored nonfederal customer under comparable terms and conditions."[14] Thus, in this study FSS prices are used to represent the prices drug companies charge their most favored customers.

D. Determination of Prices Paid By Pharmacies

The survey also looked at two other pricing indicators: (1) the Average Wholesale Price (AWP) and (2) the prices charged pharmacies by a large drug wholesaler. These two prices provide an indicator of the extent of markups that are attributable to the pharmacy (in contrast to those that are due to the drug manufacturer). The AWP is an average of prices charged by the drug wholesalers to retail pharmacies. The AWP prices were obtained from the *1997 Drug*

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[13] Pharmaceutical Assistance Contract for the Elderly ("PACE"), Pennsylvania Department of Aging, *Annual Report to the Pennsylvania General Assembly* (January 1 - December 31, 1997).

[14] U.S. General Accounting Office, *Drug Prices: Effects of Opening Federal Supply Schedule for Pharmaceuticals Are Uncertain* 6 (June 1997) (emphasis added).

Topics Red Book (the *"Red Book"*).[15] As another measure of wholesale prices, the study used the wholesale prices charged pharmacies by McKesson, the world's largest wholesaler.

E. Determination of Drug Dosages

When comparing prices, the study used the same criteria (dosage, form, and package size) used by the GAO in its 1992 report, *Prescription Drugs: Companies Typically Charge More in the United States Than In Canada.* For drugs that were not included in the GAO report, the study used the dosage, form, and package size common in the years 1994 through 1997, as indicated in the *Red Book.*

F. Comparison of Price Differentials for Other Retail Items

In order to determine whether the differential between FSS prices and retail prices for drugs commonly used by older Americans is unusually large, the study compared the prescription drug price differentials to price differentials on other consumer products. To make this comparison, a list of consumer items other than drugs available through the FSS was assembled. FSS prices were then compared with retail prices at which the items could be bought at a large national chain.[16]

IV. DRUG COMPANIES CHARGE OLDER AMERICANS DISCRIMINATORY PRICES

A. Discrimination In Drug Pricing

For the five drugs investigated in this study, the average price differential between the price that would be paid by a senior citizen in Ms. Slaughter's congressional district and the price that would be paid by the drug companies' most favored customers was 109% (Table 1). The study thus showed that the average price that older Americans and other individual consumers in Ms. Slaughter's district pay for these drugs is almost double the price paid by the drug companies' favored customers, such as large insurance companies and HMOs.

For individual drugs, the price differential was even higher. Among the five best selling drugs, the highest price differential was 155% for Zocor, a cholesterol medication manufactured by Merck. For other popular drugs, the study found even greater price differentials. The drug

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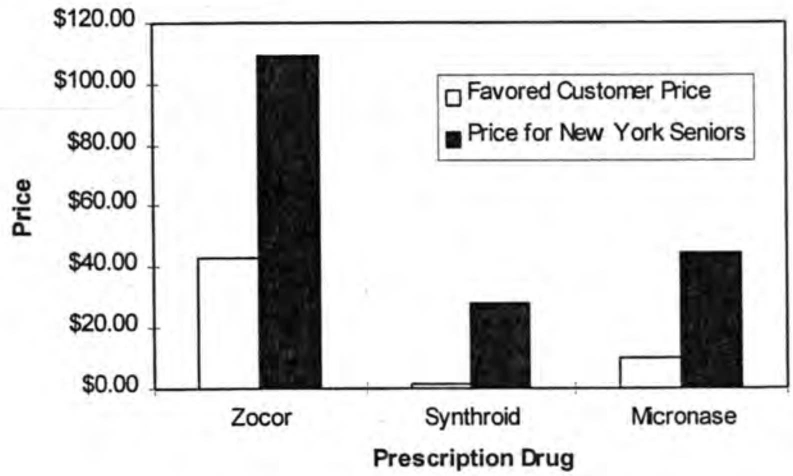
[15] Medical Economics Company, Inc. (1997).

[16] The items used were paper towels, envelopes, rubber bands, toilet paper, pencils, Rolodexes, tape dispensers, waste baskets, correction fluid, post-it notes, paper clips, and scissors.

with the highest price differential was Synthroid, a commonly used hormone treatment manufactured by Knoll Pharmaceuticals. For this drug, the price differential for senior citizens in New York was 1,511%. An equivalent dose of this drug would cost the most favored customers only $1.75, but would cost the average senior citizen in New York $28.20. For Micronase, a diabetes treatment manufactured by Upjohn, the price differential was 344% (Figure 1).

Figure 1: Older Americans in New York Pay Inflated Prices for Prescription Drugs.

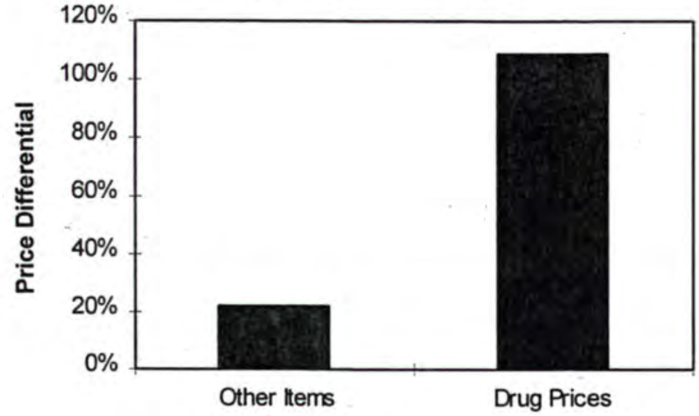


Every drug looked at in this study had a large price differential. Four of the drugs had a price differential of 97% or greater, and the price differential for Zoloft, the lowest of the top five, was still 82%.

B. Comparison With Other Consumer Goods

The study also analyzed whether the large differentials in prescription drug pricing could be attributed to a volume effect. The drug companies' most favored customers, such as large insurance companies and HMOs, typically buy large volumes of drugs. Thus, one would expect that there would be some difference between the prices charged the most favored customers and retail prices. The study found, however, that the differentials in prescription drug prices were much greater than the differentials in prices for other consumer goods. The study found that, in the case of other consumer goods, the average difference between retail prices and the prices charged most favored customers, such as large corporations and institutions, was only 22%. The average price differentials in the case of prescription drugs were thus almost five times larger than the average price differentials for other consumer goods (Figure 2). This indicates that a volume effect is unlikely to explain the large differentials in prescription drug pricing.

Figure 2: Price Differentials on Drugs Commonly Used by Older Americans Are Far Higher Than Differentials for Other Consumer Goods.



C. <u>Drug Company Versus Pharmacy Responsibility</u>

Finally, the study sought to determine whether drug companies or retail pharmacies were responsible for the high prices being paid by older Americans. To do this, the study compared the average wholesale prices that pharmacies pay for drugs to the prices at which the drugs are sold to consumers. This comparison revealed that pharmacies appear to have relatively small markups between the prices at which they buy prescription drugs and the prices at which they sell them. The study found that the average retail prices were only 2% higher than the published national Average Wholesale Price, and only 27% above the prices available directly from one large wholesaler (Figure 3). This finding indicates that it is not retail markups, but drug company pricing policies, that account for the inflated prices charged to older Americans and other customers. These findings are consistent with other experts who have concluded that because of the competitive nature of the pharmacy business at the retail level, there is a relatively small profit margin for retail pharmacists.[17]

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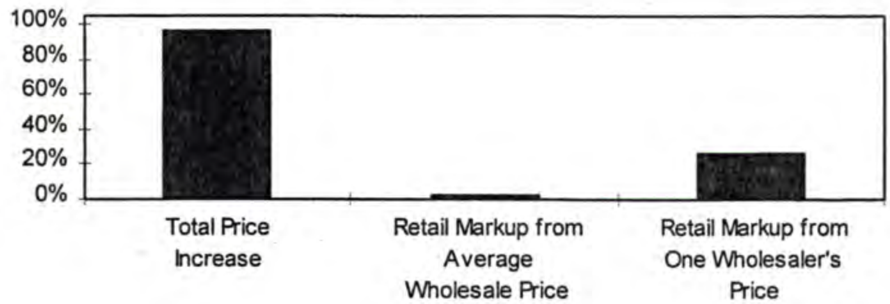
[17] National Association of Chain Drug Stores, *Did You Know* . . . (pamphlet) [citing financial data assembled by Keller Bruner & Company, P.C., Certified Public Accountants (1995)].

Figure 3: Drug Companies, Not Retail Pharmacists, Are Responsible for High Drug Costs Paid by Older Americans.



Moreover, the study found no significant differences in retail prices between pharmacies in different parts of Ms. Slaughter's district. Further, although there were variations in prices between chain and independent pharmacies, these differences were small and not systematic.[18]

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[18] In 1993, independent pharmacies sued 19 drug manufacturers, alleging that the differential between the prices charged most favored customers and the prices charged pharmacies violated antitrust laws. In 1996, 11 of these drug manufacturers agreed to settle with the pharmacies. Under this agreement, these pharmaceutical companies promised to offer pharmacies the same price discounts as favored customers like large HMOs if the pharmacies could show the same ability to move market share as the favored customers. On July 13, 1998, four additional drug manufacturers agreed to a settlement under similar terms.

Unfortunately, the results of this study cast doubt on whether these agreements are likely to end the price discrimination practices of the large pharmaceutical companies. Each of the five most popular prescription drugs in this survey -- Zocor, Norvasc, Prilosec, Procardia XL, and Zoloft -- are covered by the agreement reached in 1996, and there is still large price discrimination for all of these drugs. Synthroid is also covered under the agreement, and this drug has a price differential of 1,511%.

The reason for the continued high price differentials may be that, unlike hospitals or HMOs, pharmacies cannot control decisions made by doctors about what drugs to prescribe, and thus are unable to demonstrate to the drug manufacturers that they can influence market share. The doubts raised by this study are consistent with the observations of other industry analysts, who note that "there is already intense skepticism among retail buying groups for independent drugstores about whether the smaller independents will have the ability to qualify for the potential windfall and pass the savings on to customers." Wall Street Journal, *Drug Makers Agree To Offer Discounts For Pharmacies*, B4 (July 15, 1998).

V. THE CONSEQUENCES OF DRUG COMPANIES' DISCRIMINATORY PRICING

There are two conflicting consequences of the current drug industry pricing practices. Although these pricing practices have allowed the drug industry to grow and amass large profits, they have also imposed severe financial hardship on older Americans and others who buy their own drugs.

A. Drug Company Profits

Drug industry pricing strategies have boosted the industry's profitability to extraordinary levels. The annual profits of the top 10 drug companies is nearly $20 billion.[19] Moreover, the drug companies make unusually high profits compared to other companies. The average manufacturer of branded consumer goods, such as Proctor & Gamble or Colgate-Palmolive, has an operating profit margin of 10.5%. Drug manufacturers, however, have an operating profit margin of 28.7% -- nearly three times greater (Figure 4).[20]

These high profits appear to be directly linked to the pricing strategies observed in this study. For instance, Merck, the country's largest pharmaceutical manufacturer, had an increase in profits of 15% to 18% in the second quarter of 1998. According to industry analysts, Merck's increased profits were due in large part to sales of Zocor,[21] which is sold in Ms. Slaughter's district at a price differential of 155%. Zocor itself accounts for 6% of Merck's revenues.[22]

Overall, profits for the major drug manufacturers are expected to grow by about 20% in 1998, compared to 5% to 10% for other companies on the Standard & Poors Index. The drug manufacturers' profits are expected to grow by up to an additional 25% in 1999.[23] According to one analyst, "the prospects for the pharmaceutical industry are as bright as they've even been."[24]

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[19] *See* 1998 Fortune 500 Industry List (www.pathfinder.com/fortune500/indlist.html).

[20] Paul J. Much, Houlihan Lokey Howard & Zukin, *Expert Analysis of Profitability* (February 1988).

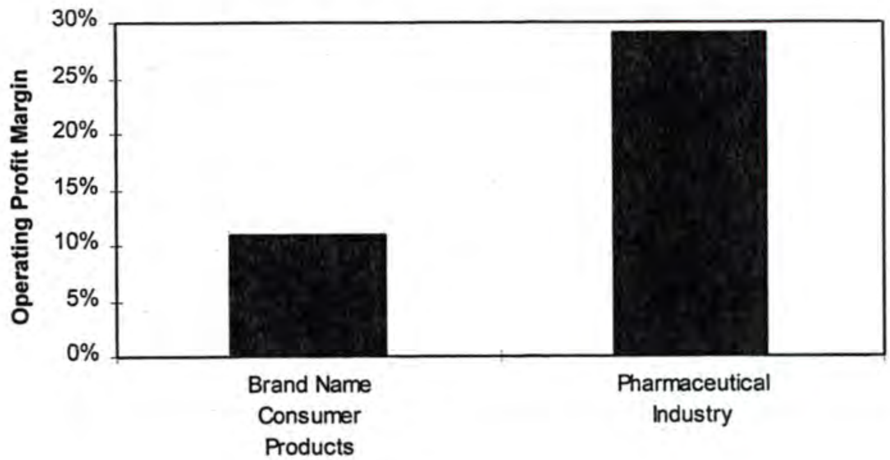
[21] USA Today, *Drugmakers Have Healthy Outlook* (July 20, 1998).

[22] IMS America, *Top 200 Drugs of 1997* (1998).

[23] USA Today, *supra* note 21.

[24] *Id.* at D1.

Figure 4: The Pharmaceutical Industry's Profit Margins Are Larger Than Those For Other Industries.



B. <u>What High Drug Prices Mean for Older Americans In New York</u>

While drug companies are thriving under their current pricing strategies, older Americans are not. Surveys indicate that high prescription drug prices impose financial hardships on millions of older Americans. To assess the extent of these hardships, the staff of Ms. Slaughter's office interviewed senior citizens in Ms. Slaughter's district. The following case study illustrates the financial hardship shared by seniors.

<u>Arthur Stefanik</u>. Arthur Stefanik is a 74-year-old resident of Rochester. Mr. Stefanik suffers from heart disease, diabetes, and asthma, and takes four prescription drugs -- Coumadin, Zestril, Morbin inhalers, and Glyburide -- for these conditions.

Mr. Stefanik lives on an income of $1,310, from Social Security and a part-time job. He is forced to spend $150 a month -- approximately one-eighth of his income -- on prescription drugs. Mr. Stefanik says that, because of the high costs, he has trouble affording his medications and has had to skip his asthma medicine or cut down his dosage. This has a direct impact on his health, leading to severe breathing difficulties. He says that it would make a big difference in his quality of life if the cost of prescription drugs were reduced.

Appendix A
Information on Prescription Drugs Analyzed In This Study

			Prices (Dollars)				
Brand Name Drug	**Dosage and Form**	**Indication**	**FSS**	**Major Whole-saler**	**AWP**	**Average Retail Price**	**Price Differential**
Zocor	5 mg, 60 tablets	Cholesterol reducer	$42.95	$85.47	$106.84	$109.36	155%
Prilosec	20 mg, 30 cap.	Ulcer	$56.38	$99.20	$108.90	$118.75	111%
Procardia XL	30 mg, 100 tab.	Heart Problems	$67.35	$105.05	$131.31	$133.89	99%
Norvasc	5 mg, 90 tablets	High Blood Pressure	$58.83	$97.92	$125.66	$116.08	97%
Zoloft	50 mg, 100 tab.	Depression	$123.88	$172.44	$215.55	$225.78	82%
Average Price Differential							**109%**

Appendix B
The Five Top Selling Patented, Nongeneric Drugs for Seniors Ranked by Total Dollar Sales

Rank	Drug	Manufacturer	Indication
1.	Prilosec	Astra/Merck	Ulcer
2.	Norvasc	Pfizer, Inc.	High Blood Pressure
3.	Zocor	Merck	Cholesterol reduction
4.	Zoloft	Pfizer, Inc.	Depression
5.	Procardia XL	Pfizer, Inc.	Heart Problems

Source: Pharmaceutical Assistance Contract for the Elderly ("PACE"), Pennsylvania Department of Aging, *Annual Report to the Pennsylvania General Assembly* (January 1 - December 31, 1997)

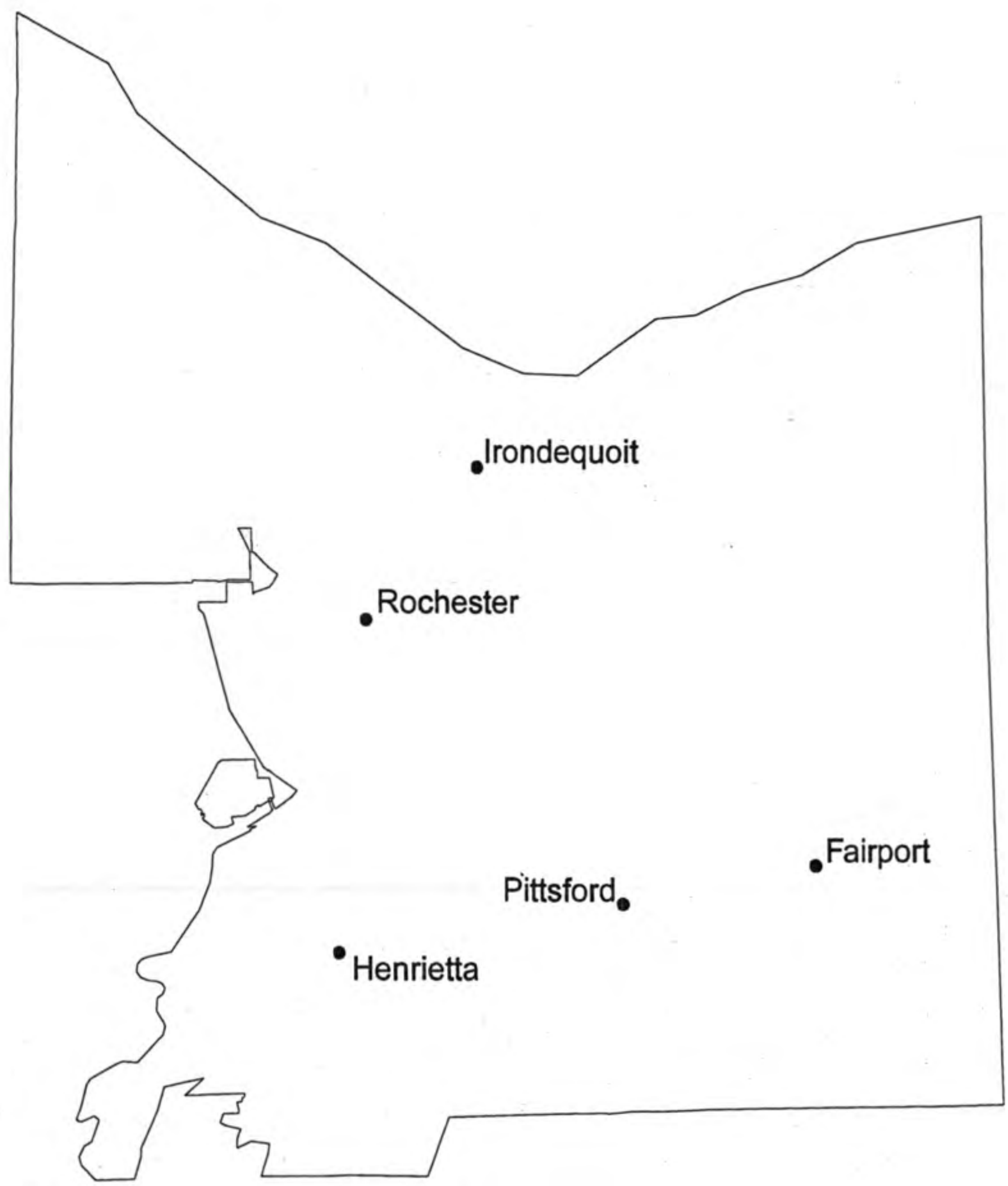
Appendix C

Price Comparisons For Non-Prescription Drug Items

Item	FSS Price	Retail Price	Differential
Toilet Paper, 96 Rolls	$44.74	$47.98	7%
Paper Towels, 30 Rolls	$22.94	$29.98	31%
Envelopes, 500, White, 20 lb. weight	$6.45	$9.49	47%
Scissors	$10.88	$12.99	19%
Rubber Bands, 1 lb.	$2.57	$2.67	4%
Rolodex, 500 Card	$13.24	$14.29	8%
Pencils, #2, 20-pack	$1.03	$1.26	22%
Tape Dispenser	$1.44	$1.69	17%
Wastebasket, Plastic, 13 qt.	$2.95	$3.49	18%
Correction Fluid, 18 ml., dozen.	$6.66	$9.99	50%
Post-It Notes	$2.08	$2.89	39%
Binder Clip, small, 1 box	$0.49	$0.49	0%
Average Price Differential			**22%**

Appendix D

Prescription Drug Price Survey Locations in New York's 28th Congressional District



Geography and Map Division, Library of Congress, October 1998. G-1998-52-S.I.

THE WHITE HOUSE

WASHINGTON

February 15, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: ANN O'LEARY
RUBY SHAMIR

CC: MELANNE VERVEER
SHIRLEY SAGAWA
LISSA MUSCATINE
PATTI SOLIS DOYLE

SUBJECT: ISSUES UPDATE

The purpose of this memo is to provide you with brief updates on a number of national issues in which you have been involved or expressed interest.

LEGISLATIVE UPDATE

Bankruptcy. On Wednesday, February 2nd, the Senate passed the Bankruptcy Reform bill in a vote of 83-14-1. While the Administration still has some reservations about the bill, the Senate made a good faith effort to strike a balance between debtors and creditors. The Senate Democrats pushed for and won significant improvements on the issues of consumer credit disclosure, protections for low-income debtors, and scaling back on coercive reaffirmation agreements. Apart from the substantive bankruptcy provisions, the Senate also approved the Domenici minimum wage and tax amendment that was attached to the bill on the floor. As the bill goes to conference, the Senate Democrats are pushing to have the non-relevant non-germane amendments removed from the conference report and final bill. Details on the amendments are below:

- *Consumer Credit Disclosure (Torricelli Amendment):* This amendment requires credit card companies to disclose information concerning the consequences of making minimum payments. While the cost of making minimum payments would be expressed based on an example rather than information about the specific terms of the consumer's loan, the lender would be required to provide an 800 number for consumers who desire more specific and accurate information. The House bill, on the other hand, allows for disclosures based on unrealistic illustrations and only requires disclosures upon opening an account and once a year thereafter.

  This amendment also requires prominent disclosure of the permanent interest rate in immediate proximity to first disclosure of the temporary (teaser) rate. No such provision is included in the House bill.

- *Protections for Low-Income Debtors – "Safe Harbor" provision (Schumer Amendment):* This amendment requires a safe harbor from means test motions for debtors below the higher of the state or national median income plus $583 for each family member over four. It appears to count income of a separated spouse, even if he is not a debtor in the case. Unlike the House bill, S. 625 provides no protections against non-means test abuse motions by creditors.

- *Curbing Coercive Reaffirmation Agreements (Reed-Sessions Amendment):* The Reed-Sessions amendment (1) requires disclosures related to the underlying credit agreement rather than the reaffirmation agreement; (2) eliminates existing filing and disclosure requirements; and (3) protects creditors who fail to comply with the law by requiring debtors who choose to challenge a creditor practice to prove that the creditor acted in bad faith. This provision is a change from current law under which court filing requirements allow courts to oversee the reaffirmation process.

- *Non-Relevant, Non-Germane Amendments: Minimum Wage and Tax Amendments (Domenici):* Under this amendment, the minimum wage would be increased from $5.15 to $6.15 over three years, instead of over two years as proposed by the Administration. In addition, the amendment included $76 billion in tax cuts over 10 years – many of which were vetoed by the President in the Republican's 1999 tax package. These tax breaks include a major expansion of pension-related tax preferences for high-income individuals and an "above the line" deduction for health insurance premiums.

Drive-By Mastectomies. You asked for an update on drive-by mastectomies. As you know, in 1997, Congresswoman Rosa DeLauro introduced the Breast Cancer Patient Protection Act guaranteeing a minimum hospital stay of 48 hours for a woman having a mastectomy, and 24 hours for a woman undergoing a lymph node removal, and ensuring that any decision to have a shorter hospital stay would be made by the patient and her doctor – not an insurance company. This bill, H.R. 116, has 209 co-sponsors. There is a similar GOP bill, H.R. 383 sponsored by Rep. Sue Kelly, which has 94 co-sponsors. The main difference between the two bills is that the GOP version does not include how much time patients can spend in the hospital, while the DeLauro bill specifically calls for a 48 hour stay. There has not been any major action on either of these bills, and the Administration has not taken any specific position. However, Dr. Kristen Zarfos, who joined you to watch the State of the Union in 1997 and this past year, has spoken out strongly in support of the DeLauro bill.

This issue has also come up in the context of debate over the Patients Bill of Rights. Last summer the Senate passed a version of the Patients Bill of Rights that was not supported by the Administration which included a provision on overnight hospital stays for women who have mastectomies. Not a single Democrat voted for this amendment because it compelled insurance companies to pay for overnight stays only if they were deemed medically necessary. The House-passed version of the Patients Bill of Rights, which was supported by the Administration, did not include any provision on drive-by mastectomies.

REPORTS AND STUDIES

Child Care and Welfare Reform. The findings from a new report on the effects that welfare reform has had on child care were released last week. The study, conducted by Bruce Fuller of University of California at Berkeley and Sharon Lynn Kagan of Yale University, focuses on how low-income mothers and their children are faring under welfare reform. Among its findings, the report acknowledges that welfare caseloads have dropped and that many parents are now working, but the researchers question whether conditions have improved and suggest that welfare reform, in large part, is responsible for the placement of children in mediocre or low-quality care. The findings make a strong case for the need for better quality care, but the report does not provide evidence for the link between welfare reform and low quality care. HHS prepared guidance on this report with several strong arguments: (1) We agree with the authors of the report that quality child care is important for low-income families, and that well-targeted subsidies can improve the quality of child care. That's why this Administration has proposed a comprehensive child care initiative to improve access, affordability and quality of child care. (2) The problems with child care quality have been around for a long time, and cannot be traced to welfare reform. (3) Child care has actually improved over the course of this Administration because of the consolidation of child care funds under welfare reform, and the doubling of federal child care dollars since President Clinton took office.

Charter Schools. On February 11th, the President released the fourth annual U.S. Department of Education report on "The State of Charter Schools." The report shows that more than 250,000 students nationwide are now enrolled in charter schools in 30 states and the District of Columbia. (Thirty-six states and the District of Columbia have now passed legislation allowing the creation of charter schools). According to the report, seven out of ten charter schools have waiting lists for students. The report also shows that most charter schools are small schools. In fact, the median enrollment of all charter schools is 137 students, compared to 475 for all public schools in the same states. Seven of ten charter schools are also newly created schools. Eighteen percent are pre-existing public schools that convert to charter status, while 10 percent are converted private schools. The report also reveals that charter schools enroll a slightly higher percentage of students who are eligible for free or reduced-price lunch than other public schools in their states and reflect similar racial diversity.

CABINET REPORT

USDA

New Federal Milk Orders. On February 4, USDA announced prices for milk products under the new Federal milk marketing order reform pricing system enacted by Congress as part of the FY2001 consolidated appropriations bill, which overturned USDA's plan to reform the milk marketing order system. For January, the new class III price – which measures butter, cheese, and dry whey prices, and which replaces the old basic formula price – was $10.05 per hundredweight, $0.42 higher than the December level, but $6.22 below the comparable measure's level in January 1999. In related developments, on February 8, the Senate agriculture committee held a hearing on Federal dairy policy, focusing on why the U.S. needs a dairy program and the current state of the dairy industry, and on February 9, held another hearing on the dairy pricing system.

LABOR

Parental Leave. The comment period for Birth and Adoption Unemployment Compensation rules, which would allow states to use their unemployment compensation programs for parental leave, expired on February 2. The 3,000 comments currently logged are fairly evenly divided pro and con. There have been a number of challenges from the Congress to the Department of Labor's authority to provide this flexibility through regulation. The next step will be to draft a final rule and obtain OMB clearance. Given the extent of the comments, the Labor Department's most ambitious estimate for a final rule publication would be in the late spring.

As you know, the President devoted his radio address last week to announcing the $20 million proposal to provide grants to states r regions to make parental and family leave more available and affordable for those who need it. Under the President's proposal, states will be able to: 1) identify workers who face the greatest financial barriers to taking family leave, and 2) use Unemployment Insurance, Temporary Disability Insurance, or other mechanisms to offer these workers paid leave.

ENERGY

Home Heating Oil. Last Wednesday, Secretary Richardson met with heating oil refiners and distributors to discuss ways to increase supply and last Thursday, he announced a multi-point plan to deal with the recent price-surge. Tomorrow, Secretary Richardson and the National Association of State Energy Officials will host a Northeast Home Heating Oil Summit in Boston, and the Secretary plans to visit Main and Rhode Island in the coming weeks. As you know, last week the President released an additional $130 million in Low Income Home Energy Assistance (LIHEAP) emergency funds for states, territories and tribes due to continuing increases in home heating fuel prices this winter.

EPA

Public Awareness of Chemicals. As part of its commitment to increase the public's right to know about chemicals in their community, EPA is making information available on health and environmental data for 2,011 chemicals. The High Production Volume Chemical Challenge Program is part of the Vice President's commitment to inform the public about toxic chemicals. The voluntary effort makes basic screening-level toxicity information available to the public on chemicals manufactured or imported into the U.S. in amounts over one million pounds a year.

Second Anniversary of Clean Water Action Plan. February 19 will mark the second anniversary of the Clean Water Action Plan. More than one-third of the 111 key actions to restore and protect the nation's waters have been completed, creating more livable communities along our rivers, lakes and coasts. Major accomplishments include doubling the investment in polluted runoff control, establishing a management strategy for animal feeding operations, preserving roadless areas in our national forests, establishing over 700,000 acres of conservation buffers, and protecting more than 120,000 acres of wetlands.

California MTBE Waiver Request. To meet his pledge to phase out the use of MTBE in the State's gasoline, CA Governor Davis has asked EPA for a waiver from the Clean Air Act (CAA) oxygenate requirement. The CAA specifies that reformulated gasoline must have an oxygenate content of at least 2 percent by weight. MTBE is the oxygenate most widely used by CA refiners to meet this requirement. Under the CAA, to receive a waiver, EPA must determine that compliance with the oxygenate requirement prevents or interferes with the attainment of an EPA air quality health standard (e.g., EPA's ozone smog standard). On December 24, 1999, CA officials provided EPA initial documents in support of the State's waiver request. Additional data and analysis is needed and California officials have indicated their plan is to submit this additional information to EPA in the near future. Once EPA receives this information, EPA will be able to perform the technical analysis of CA's waiver request required under the CAA. If the statutory conditions for receiving the waiver are met, EPA is required to provide public notice of its decision. Such procedures include a comment period of a minimum of thirty days.

LEGISLATIVE CALENDAR

Senate

The Senate will stand in recess for the week of February 14 in observance of President's Day, and will reconvene on Tuesday, February 22 at 11:00 AM.

The following is a list of legislation Senator Lott has indicated may be considered prior to the March recess. This list is not exclusive, not in any particular order, and does not include consideration of Executive Nominations:

- Concurrent Budget Resolution
- Elementary and Secondary Education Act
- Any available appropriations bills
- Marriage Penalty bill
- Child Protection Custody Act, which proscribes the transportation of minors across state lines in circumvention of state parental abortion notification laws.
- FAA Conference Report
- Elian Gonzalez bill
- Africa/CBI Trade Conference Report
- Iran non-proliferation bill

House

The House will be in session this week, but will hold no votes on Friday, February 18. Among other legislative business, the House today will consider awarding a Congressional gold medal to John Cardinal O'Connor, Archbishop of New York.

House Committee Hearings

Some House Committee and Subcommittee hearings include:

- **Low Income Housing Issues.** The Housing and Community Opportunity Subcommittee (Chairman Lazio, R-N.Y.) of House Banking and Financial Services Committee will mark up legislation that would revise and reauthorize a number of federal housing programs, including section 8 homeownership subsidies, Community Development Block Grants, Home Investment Partnerships Program, Local Homeownership Initiatives, Manufactures Housing Improvement Program and the Indian Housing Homeownership program. The legislation enjoys considerable bi-partisan support, but has at this point received some criticism from seniors groups and some low-income housing advocates who fear that the bill focuses too little attention the poorest populations.

- **Social Security Work Incentives.** The Social Security Subcommittee (Chairman Shaw, R-Fla.) of House Ways and Means Committee will hold a hearing on guidelines that affect how much income senior citizens can earn before they begin to lose their social security benefits.

- **Pension and Investments.** The Employer-Employee Relations Subcommittee of (Chairman Boehner, R-Ohio) House Education and the Workforce Committee will hold a hearing on "The Evolving Pension and Investment World After 25 Years of ERISA."

- **Affordable Prescription Drugs and Medical Privacy.** The Health Subcommittee (Chairman Thomas, R-Calif.) of House Ways and Means Committee will hold a hearing on ways to make prescription drugs more affordable for senior citizens. This subcommittee will also hold hearings later in the week on the Administration's proposal to protect patient privacy

- **Medicare Drug Benefit.** The House Commerce Committee (Chairman Bliley, R-Va.) will hold a hearing on proposals to establish a prescription drug benefit program for senior citizens.

- **Fiscal 2001 Budget Review.** The House Budget Committee (Chairman Kasich, R-Ohio) will hold hearings on the president's fiscal 2001 budget.

- **Employer Health Insurance.** The House Small Business Committee (Chairman Talent, R-Mo.) will hold a hearing on ways to expand access to employer-based health insurance for small business owners and employees and their dependents.

UPCOMING POTUS SCHEDULE

→ on Feb 22

Wednesday, Feb. 16	Possible Press Conference
Thursday, Feb. 17	Address Opening of Africa Summit
Friday, Feb. 18	Medical Errors Event Location: TBD
Saturday, Feb. 19	Radio Address (taped Friday, Feb. 18) Topic: One America -Youth opp grants EZs Buffalo getting 40 NYC didn't get it
Monday, Feb. 21	President's Day Holiday
Tuesday, Feb. 22	Live Teleconference with Mandela on Burundi
	Message Event TBD
Wednesday, Feb. 23	State Visit of the King and Queen of Spain Location: White House
	Possible Food Stamp Reg./Transportation Event
Thursday, Feb. 24	Address Business Council (closed press) Location: DC TBD
	Granoff Lecture on the New Economy Location: University of Pennsylvania
Friday, Feb. 25	Possible Departure Statement on Native American Budget Initiative (T)
	Present Malcolm Baldridge Awards Location: Washington, DC
Saturday, Feb. 26	Radio Address (taped on Friday, Feb. 25) Topic: TBD – Possibly Failing Schools Guidance
Monday, Feb. 28	NGA Roundtable Location: White House
	Amtrak Announcement Location: White House
Tuesday, Feb. 29	Departure Statement Topic: TBD
	Travel to Florida

→ which companies getting them?

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THE WHITE HOUSE

WASHINGTON

February 28, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: ANN O'LEARY
RUBY SHAMIR

CC: MELANNE VERVEER
SHIRLEY SAGAWA
LISSA MUSCATINE
PATTI SOLIS DOYLE

SUBJECT: ISSUES UPDATE

The purpose of this memo is to provide you with brief updates on a number of national issues in which you have been involved or expressed interest.

LEGISLATIVE AND ISSUES UPDATE

Education: Tax Exemption for K-12 Education Expenses. Last week, the Senate began debate on S. 1143, a bill that would provide parents tax exemption for up to $2,000 in K-12 education related expenses for each of their children. The bill would establish Education Savings Accounts by expanding the higher-education Education IRAs to allow expenditures on, among other things, tuition, fees, room and board, academic tutoring, special need services, books, and supplies and equipment incurred in connection with enrollment in public, private, and/or religious elementary or secondary schools. The Administration sent a Statement of Administration Policy (SAP) to the Senate in strong opposition. A vote on a cloture motion is scheduled for 2:30 on Tuesday, February 29.

This proposal is not new. In 1998, the President vetoed HR 2646, the "Education Savings and School Excellence Act" that included similar provisions. In addition, a tuition tax credit proposal for K-12 was included in the Republican tax package vetoed by the President last year.

A number of States have also begun to provide tax incentives to help parents pay for K-12 education through tuition tax credits. In states that have provided tuition tax credits to parents of school-aged children – such as Minnesota, Iowa, and Arizona – the tax credits are helping higher income families that already intended to send their children to private school, rather than giving children from low-income families more choices and opportunities.

Recommendation: When you publicly speak out against vouchers, you might also consider speaking out against these tax exemption or tax credits for elementary and secondary education and equating them to vouchers. Like vouchers, these tax incentives can be criticized for: (1)

draining money away from Federal resources that improve education for all children through smaller class sizes, teacher quality, modernizing and repairing schools, and the establishment and expansion of public charter schools; (2) helping wealthy families more than low-income families; and (3) narrowing the division between church and state.

Education: Update on Reauthorization of the Elementary and Secondary Education Act (ESEA). This week, the Senate Health, Education, Labor and Pensions (HELP) committee will mark-up Senator Jeffords' proposed reauthorization of the Elementary and Secondary Education Act (ESEA). Given that the House has already passed major portions of the bill from Title I to Teacher Quality and that ESEA will expire on September 30th of this year, the Senate is feeling pressure to get a bill out of Committee and onto the floor. Senator Lott has committed to bring ESEA to the floor as soon as it is reported out of Committee (early April is the expectation).

The ESEA is only authorized every five years and was last reauthorized in 1994 with a one-year extension. ***This reauthorization will be the major Federal education framework through 2005*** and, thus, both the Republicans and Democrats are trying to shape the next stage of Federal Education policy through this bill.

> **HELP Committee Mark-Up of ESEA:** Senator Jeffords' proposal tries to balance Republican's call for flexibility with a "stay the course" approach to keeping the law as is currently written. It does not include any of the Administration's proposals to reduce class-sizes in the early elementary grades, strengthen accountability, improve training for teachers and teachers' aides, or ensure targeted funds to our highest need communities. It does, however, maintain much of the current law of Title I, but then proceeds to include the Republican's "Straight A's" proposal which would allows States to block grant most of their Federal education dollars with no accountability.
>
> Democrats are expected to offer amendments that represent the Democratic education priorities outlined in the Administration bill (S. 7). Senator Murray is expected to offer an amendment promoting the President's class-size reduction program. Senator Bingaman is expected to offer an amendment to strengthen accountability, which is similar to the Administration's Accountability Act. Senator Dodd plans to offer an amendment to strengthen training for child care providers and early childhood educators. Senator Kennedy is likely to offer an amendment that would address teacher recruitment and Senator Mikulski is expected to offer an amendment that would address the disparity of access to technology between high- and low-income students and school districts. Senator Harkin will advance the school modernization and construction agenda by putting forward an amendment that would help school districts either raise money for construction or provide federal assistance for emergency repairs.
>
> **Floor Action:** Once the bill reaches the Senate floor, it will intersect with the proposal of moderate Democrats led by Senator Lieberman (co-sponsors include: Senators Bayh, Landreiu, Linson, Kohl, and Wyden). Senator Lieberman's bill incorporates many of the Administration's priorities including strong accountability measures tied to greater flexibility, the promotion of public school choice, and provisions for teacher quality and teacher recruitment. The major problem with the bill is that it block grants several of the

Administration's top priorities, including 21st Century Community Learning Centers, Safe and Drug Free schools, technology initiatives and Reading Excellence grants.

In addition, Senator Schumer has introduced a bill, the "School Quality Counts Act," that includes the Administration's proposal for school, state, and district report cards on key quality indicators to go out to parents and community members; teacher recruitment and teacher quality provisions; and Academic Achievement Awards for schools and districts.

Youth Violence: National Campaign Against Youth Violence. On Tuesday, February 22nd, the President held a conference call to welcome and thank the newly appointed board members of the National Campaign. The President discussed the work the Campaign is doing on three fronts: a city-by-city effort to engage local communities that will be kicked off in Memphis on April 14th, a national media campaign, and a school-based program led by young people.

Board members talked about some of the work they are already doing to prevent youth violence. For example, AOL is planning a feature on its Teen Channel to allow kids to speak out on violence; Discovery will air a national town hall and produce a three-part series on youth violence; and Major League Soccer will lead an effort by professional sports leagues to promote good citizenship through sports.

The call energized the board members and several proposed some interesting ideas to the President. Steve Case pointed out that as the variety of forms of media begin to merge, it will become increasingly necessary to give parents tools to understand what is right for their kids. He further discussed the need to come together around a ratings system that makes sense for all forms of media and entertainment.

Board members include: Sherri Abufakuseh, National Youth Advisory Council; Steve Case, AOL; Mayor Bent Coles, Mayor of Boise, Idaho and Mayor-Elect to Chair U.S. Conference of Mayors; Ron Burkle, the Yucaipa Companies; Henry Cisneros, Univision; Benjamin Civiletti, former U.S. Attorney General; John Devine, New York University; Senator Dole; Jason Doresey, youth representative; Representative Jennifer Dunn; Greg Favre, the McClatchy Company; Representative Martin Frost; Donald Garber, Major League Soccer; Carter Gaston, youth representative; Leo Hindery, GlobalCenter; Todd Howard, Tommy Hilfiger; Bob Iger, Walt Disney; Rick Inatome, ZapMe!; Francine Katz, Anheuser-Busch; Mel Karmazin, CBS; Geraldine Laybourne, Oxygen Media; Ira Lipman, Guardsmark; Judith McHale, Discovery; Neal Nelinger, Banque Paribas; Dick Parsons, Time Warner; Bud Paxson, Paxson Communications; Deborah Prothrow-Stith; Eli Segal, Welfare to Work; Leigh Steinberg, Sports Management; Mayor Wellington Web, Mayor of Denver; Bob Wright, NBC; and, Anne Zehren, Teen People.

Youth Violence: White House Council on Youth Violence. Last week, Bruce Reed held the first Council meeting to discuss how various agencies could more effectively work together to prevent youth violence. Secretaries Herman, Shalala, Summers, Attorney General Reno, and Deputy Secretary Holleman were in attendance. They discussed moving forward on the Council's mission to develop a citizen's information hub, produce reports on youth violence, expand the Safe Schools/Healthy Students model of collaboration, and coordinate the federal research agenda.

In addition, Secretary Shalala applauded the idea of you hosting a White House Conference on Raising Responsible Teenagers; Secretary Summers called for a "Parents-Asking-Parents" campaign to help parents feel comfortable asking other parents if they have guns in their homes; Attorney General Reno suggested providing cities currently receiving multiple federal grants with technical assistance; and Secretary Herman suggested bringing other federal partners to the table, including HUD.

Unborn Victims of Violence Act. Last week, Assistant Attorney General Eleanor D. Acheson testified before the Senate Judiciary Committee on the Unborn Victims of Violence Act stating that the Department of Justice would recommend that the President veto the bill if it reached his desk. The legislation, which passed the House last September by a vote of 254-172, would make it a separate Federal offense to cause "death or bodily injury" to a "child in utero" in the course of committing certain specified Federal crimes. It uses violence against women as a guise for the legislation's purpose – to identify the fetus in Federal law as a separate and distinct entity, in this case, a distinct victim of a crime. In her testimony, Acheson reiterated the Administration's strong opposition to the bill saying that "identification of a fetus as a separate and distinct victim of crime is unprecedented as a matter of federal statute." She urged the Congress to reauthorize VAWA as a mechanism to diminish violence against women and said that the Administration would favor alternative legislation that would strengthen punishment for "intentional violence against women whom the perpetrator knows or should know is pregnant."

Child Custody Protection Act. The Child Custody Protection Act is expected to come up in the Senate within the next few weeks. This legislation, which proscribes the transportation of minors across states lines in an effort to circumvent state parental abortion notification laws, passed the House last year by a vote of 270 –159 (a veto-sustaining margin). Last year, we sent a SAP to the House threatening a Presidential veto because, in addition to a number of constitutional infirmities, the bill did not exclude close family members – including grandmothers, aunts, and minor and adult siblings – from criminal and civil liability for coming to the aid of a relative in distress. The bill also did not ensure that people who only provide information, counseling, referral, or medical services to the minor would not be subject to liability. The Senate bill is identical to the House bill, and we intend to send up the same SAP. Unfortunately, at this point our prospects on the vote are not looking very positive. The preliminary vote count is: 29 definitely no (including three Republicans: Jeffords, Chaffee, and Specter); 6 leaning no; 10 undecided; 4 leaning yes; and 51 definitely yes.

Civil Rights: Traffic Stops and Racial Profiling. This week the House Judiciary Committee is expected to mark up H.R. 1443, the Traffic Stops Statistics Study Act of 1999, introduced by Rep. Conyers and it is expected to go to the floor shortly thereafter. The President endorsed this legislation last year when he announced the directive on racial profiling, requiring certain federal agencies to collect data on the race, ethnicity and gender of individuals stopped or inspected by federal law enforcement. H.R. 1443 requires the Attorney General to conduct a nationwide study of stops for traffic violations by federal, state and local law enforcement officers, and provides grants to state and local agencies to assist them with data collection. As for the President's directive, plans for field tests were completed in December and the agencies have now begun data collection, with results and recommendations due at the end of this year. In the meantime, we have also created a working group to be led by Deputy Attorney General Holder to consider possible immediate changes in policy and practice.

Breastfeeding in the Workplace. This week, Congresswoman Carolyn Maloney plans to introduce a bill to amend the Pregnancy Discrimination Act of 1978 to prohibit the harassment and discrimination of women who breastfeed or express milk during their own lunch or break times at work. The Administration is coming out in strong support of the goals behind this proposal, but believes that the PDA's coverage of "pregnancy, childbirth, or related medical conditions" already encompasses breastfeeding or expressing milk. Several breastfeeding PDA cases are currently pending in the court and it is our opinion that we should wait for the Court's ruling before amending the PDA. The Administration will continue to come out in favor of Maloney's goals and will work with her staff to address this issue. Next week, the Surgeon General and Irasema Garza, Director of the Women's Bureau at the Department of Labor will hold an event with Congresswoman Maloney to rollout the bill.

CABINET REPORT

Below are selected Cabinet reports:

Department of Treasury

Identity Theft: On March 15-16, following up on the President's Financial Privacy and Consumer Protection Initiative, Treasury will host the National Summit on Identity Theft. The Summit will focus on the prevention and remediation of the effects of identity theft. It will be the first national level conference of law enforcement, victims, industry and non-profits interested in this issue and will be the first step towards building a public-private partnership to combat identity theft. Secretary Summers will deliver opening remarks at the Summit.

Vaccines: On February 22 and 25, in order to engender support for the Administration's Millennium Vaccines Initiative, Secretary Summers and NEC Director Gene Sperling met with representatives of major pharmaceutical companies and foundations to discuss the delivery and development of vaccines. On February 14 and 22, Acting Assistant Secretary for Tax Policy Talisman participated in meetings with tax representatives of the pharmaceutical industry to discuss issues relating to the proposed vaccine tax credit, which would provide a tax credit for sales of vaccines for malaria, tuberculosis, HIV/AIDs, and any infectious disease causing over one million deaths annually worldwide. This week, the President will hold a meeting on vaccines.

Department of Justice

Crime Policy in the 21ST Century: On February 29, the National Institute of Justice and the Office of Policy Development will convene a seminar on public trust and confidence in the justice system, the first in a series of sessions on Crime Policy in the 21st Century. The series will bring together bipartisan groups of experts to discuss the crime policy ideas that best promise to meet the needs of communities over the next five to ten years. The first session, on public trust, will address topics including police interactions with children and minorities, jury nullification, and racial profiling. Sessions in March and April will cover sentencing and corrections policy and the role of science, such as DNA evidence, in the justice system.

Juvenile Justice Publications: DOJ expects to release *Challenging the Myths*, a bulletin extracted from OJJDP's recent *Juvenile Offenders and Victims: 1999 National Report*. The bulletin responds to the much-publicized concerns about the emergence of "juvenile superpredators." The bulletin states that, although rates of serious violence did increase in the early 1990s, levels of juvenile predatory crime have dropped since 1994. In early March, DOJ is expected to release *Overview of Portable Guides to Investigating Child Abuse: Update 2000*. This bulletin provides an overview of the series and synopses of its 13 publications to date. The Portable Guides to Investigating Child Abuse provide practical guidance for on-the-job reference by individuals investigating child abuse and neglect.

Department of Commerce

Partnership for Critical Infrastructure Protection: On February 22, Secretary Daley delivered opening and closing remarks to the National Planning Retreat of the Partnership for Critical Infrastructure Protection. DOC took the lead role in coordinating the meeting to more clearly define the working relationship between government and the private sector in ensuring the security of the nation's critical infrastructure. Upcoming DOC events include a risk assessment summit of corporate leaders and internal auditors at the White House in April, and a follow-up meeting of the Partnership for Critical Infrastructure Protection in June.

Rural and Small Market Access to Local Broadcast Signals: On February 14, DOC's National Telecommunications and Information Administration published a request for comments in the *Federal Register* regarding a public meeting on rural and small market access to local television broadcast signals to be held March 2. The notice requests public comment by April 14, with reply comments to be filed by May 15.

Department of Health and Human Services

Adolescent Behavior Problems and Alcohol Use: During the week of February 28, the Substance Abuse and Mental Health Services Administration will release a new study that shows adolescents, ages 12-17, who use alcohol are more likely to report behavioral problems, especially aggressive, delinquent, and criminal behaviors. The study concludes that there is a strong relationship between problem behaviors and alcohol use among youths, including fighting, stealing, driving under the influence of alcohol and/or drugs, skipping school, and deliberately trying to hurt or kill themselves. According to the study, adolescents who drink heavily are 16 times more likely than non-drinkers to have recently used an illicit drug. Even "light drinkers" were eight times more likely to have used an illicit drug in the past month than non-drinking adolescents. These findings are based on a new analysis of 1994-96 National Household Survey on Drug Abuse data.

FY2000 University-Head Start Partnerships and Graduate Head Start Research Projects: On February 24, a Notice was published in the *Federal Register* announcing the availability of funds for University-Head Start Partnerships and Graduate Head Start Research Projects. These grants will support research activities in the areas of infant toddler development. The maximum Federal share for the University-Head Start Partnerships is $75,000 for the first-year budget period, and approximately $150,000 for each year of the project period. It is anticipated that 4-6 projects will be funded. The Federal share for the Graduate Head Start Research Grants range between $10,000-$20,000 for the first year budget period or a maximum of $40,000 for a two-year project period. It is anticipated that five to ten projects will be funded.

Department of Housing and Urban Development

Closing the Digital Divide With Neighborhood Networks: Neighborhood Networks is a community-based initiative of HUD that encourages the development of resource and computer learning centers in privately owned HUD-assisted or HUD-insured housing. Neighborhood Networks is working to increase employment opportunities and access to health and wellness, improve educational performance of children, empower residents, increase participation by property owners and decrease dependency on federal funding.

Department of Energy

National Community Action Conference: On March 1, in Washington, DC, Secretary Richardson will address leaders of the community action agencies which administer DOE's Weatherization Assistance Program (WAP). Secretary Richardson is expected to announce the award of FY2000 weatherization grants to states, as well as changes being made to WAP. The Weatherization Assistance Program implements energy efficiency measures in low income homes to reduce energy use by an average of 25 percent. Since 1976, WAP has weatherized 4.7 million homes. The funding FY2000 will weatherize 67,340 low-income homes. WAP is a, long-term solution that seeks to make low-income communities resistant to heating oil shortages and sharp price fluctuation. DOE has proposed a new strategy called Weatherization *Plus,* which will allow local weatherization providers to expand their traditional approach of addressing heating and cooling needs to a comprehensive whole-house approach using more advanced, cost-effective technologies. It should result in greater energy savings for more low-income families, and more livable communities.

Heating Oil Crisis Studies: DOE has held initial meetings with the Energy Information Administration for the planning of studies of the effects of interruptible gas contracts and the possibilities for conversion of heating oil customers to natural gas. The conversion study was announced on February 16.

LEGISLATIVE CALENDAR

Senate

In addition to considering S. 1134, the Affordable Education Act, there is a chance that the Senate will consider S. 2081, the "Religious Liberty Protection Act" (RLPA), this week. This bill, which is sponsored by Senator Hatch (R-UT), would in many cases, forbid state and local governments from imposing a substantial burden on the exercise of religion, unless they could demonstrate that imposition of such a burden is the least restrictive means of advancing a compelling governmental interest. Although the Administration and many Senate Democrats are strongly supportive of the legislation, we remained concerned that RLPA could be used to circumvent numerous civil rights laws (for example, a landlord could potentially use the law to refuse to rent to gay couples on the basis of religion). We continue, therefore, to advocate for a civil rights exception or a more narrowly tailored provision.

House

The House will convene on Tuesday, February 29th for legislative business, with recorded votes after 6:00 PM. It will consider several measures under suspension of the rules. On Wednesday and for the balance of the week, the House will consider three measures subject to a rule. The last vote of the week is expected by 2:00 PM on Friday.

Social Security Earnings Test Elimination Act. Among a few other pieces of legislation, the House is expected to consider H.R. 5, the Social Security Earnings Test Elimination Act (SAP under development, support). The legislation would eliminate the earnings test for individuals who have attained retirement age. As reported to the floor, this will be a clean bill, free of any other issues. However, we will need to monitor the Rules Committee to determine what, if any, of the amendments might be made in order. One such possible amendment would eliminate the earnings limit for blind persons. The bill should pass with overwhelming bipartisan support.

House Notes

Minimum Wage: The Republican Leadership has indicated that this issue may be debated on the floor the week of March 6th. They will likely bring up, as separate measures, a tax proposal and a minimum wage proposal. The tax component will likely total tens of millions of dollars in unfinanced business tax cuts. It is not clear whether the wage package will stick to the $1 over three years plan.

UPCOMING POTUS SCHEDULE

Monday, Feb. 28	NGA Meeting (Please see attached paper from event)
Tuesday, Feb. 29	Departure Statement on Medicare State-by-State Report
	Travel to Florida
Wednesday, Mar. 1	China/Hi-Tech Event; Location: Dulles Corridor, VA
Thursday, Mar. 2	Patients' Bill of Rights Event (T); Location: TBD (WH or Capitol Hill)
	Meeting on Vaccines (international focus); Location: White House
Friday, Mar. 3	Cyber Event; Location: San Francisco, CA
Saturday, Mar. 4	Radio Address (taped Fri. 3/3); Topic: TBD
	Travel in Los Angeles, CA
Sunday, Mar. 5	Pettus Bridge Event;Location: Selma, AL
Monday, Mar. 6	No Message Event
Tuesday, Mar. 7	Possible Medicare Event; Location: TBD
Wednesday, Mar. 8	China Speech; Location: TBD (DC, Atlanta, or Charlotte, NC)
Thursday, Mar. 9	One America Religious Leaders Event; Location: White House
Friday, Mar. 10	Message Event TBD
Saturday, Mar. 11	Live Radio Address; Topic: TBD
Monday, Mar. 13	Possible Medicare/Prescription Drugs Event; Location: Cleveland, OH
	Travel to Chicago, IL
Tuesday, Mar. 14	Medals of Science and Technology Ceremony; Location: White House
Wednesday, Mar. 15	Possible Press Conference
Thursday, Mar. 16	Possible Digital Divide Event
	Speaker's St. Patrick's Day Luncheon; Location: Capitol Hill
Friday, Mar. 17	St. Patrick's Day Events; Location: White House
Saturday, Mar. 18	Radio Address (taped Fri. 3/17); Topic: TBD
	Depart for Foreign Travel
Saturday, Mar. 18 - Sunday, Mar. 26	Travel to India and Bangladesh

THE CLINTON-GORE ADMINISTRATION: WORKING TO MITIGATE THE EFFECTS OF HIGH HOME HEATING OIL PRICES

February 28, 2000

Today, in a meeting with the National Governors Association, President Clinton will emphasize that his supplemental appropriation FY2000 request to Congress includes important assistance for consumers and businesses affected by unexpectedly high home heating oil and diesel fuel prices. The request includes $620 million in additional funds for the Low Income Housing Energy Assistance Program, the Dept. of Energy's (DOE) Weatherization Assistance Program, and the Small Business Administration (SBA) to help provide SBA loans to those affected by high home heating oil and diesel fuel prices. In addition, President Clinton will also urge the Governors to adjust LIHEAP eligibility standards to assist as many low and moderate income families as possible under federal law and emphasize that Federal law permits states to use Temporary Assistance for Needy Families (TANF) funds to provide emergency heating assistance to very low income families with children.

THE SUPPLEMENTAL APPROPRIATION REQUEST INCLUDES:

- $600 million to replenish the Low Income Housing Energy Assistance Program (LIHEAP) fund which was depleted by recent disbursements of $295 million.
- $19 million in additional funds for the DOE Weatherization Assistance Programs. These funds will meet the President's original request for weatherization and help increase the energy efficiency of homes, thereby reducing homeowners' energy burden and cost.
- $1 million for SBA program to support $86 million in loans for small businesses affected by rising oil prices. This will allow home heating oil dealers, for example, to extend flexible payment terms to their customers.

THIS REQUEST BUILDS ON EARLIER ADMINISTRATION STEPS IN RESPONSE TO THE INCREASE IN HOME HEATING OIL PRICES: In addition to the steps announced today, the Administration has already taken aggressive steps to expedite the delivery of home heating oil to markets in the Northeast and to help mitigate the effects of the unexpected price spike.

Recently, the President:

- Released a total of $295 million of LIHEAP emergency funds. The funds are being distributed so as to give priority to states most affected by increases in heating oil prices.
- Encouraged states, which administer the LIHEAP program, to adjust their eligibility standards to assist as many low and moderate income families as possible under federal law.
- Directed the Secretary of Energy to conduct a 60-day study of diversifying energy supplies in the Northeast, including converting factories and other major users from oil to other fuels, in order to free up oil supplies for use in heating homes.

- Directed the Small Business Administration to ensure the availability of Small Business Administration loans for heating oil distributors who need a better cash flow in order to buy heating oil and make deliveries to their customers.

In addition, the Department of Energy has:

- Recently hosted a home heating oil summit in Boston with refiners and major distributors of home heating oil, elected officials, analysts, and consumers to discuss the reasons for the problems in home heating oil markets, and how the government and industry can work together to better meet the needs of consumers in the Northeast and New England now and in the future.
- Requested that refiners defer routine maintenance turnarounds, subject to safety requirements, so that heating oil production remains at full throttle until the home heating oil problem has passed.
- Urged eligible utilities to switch from heating oil to natural gas.
- Created a DOE/Coast Guard Task Force for Product Movement, to prioritize heating oil shipments at terminals when necessary, clear rivers as needed, deploy Coast Guard vessels and other resources to make certain there are no shipping or loading delays.
- Initiated a DOE's Energy Information Administration and Office of Policy study on the impact of interruptible contracts on home heating oil supply. Such contracts direct gas customers to switch from gas to other fuels when the temperature drops below certain levels, to reduce peak demand for gas.
- Announced plans to re-establish an Energy Emergency Office at the Energy Department to enable the federal government to work more closely with the states to anticipate, plan and respond in a more immediate and coordinated way when energy crises occur, including heating oil/gasoline shortages, power outages, or pipeline emergencies.

HOW THESE PROPOSED ADDITIONAL FUNDS WILL HELP

- **Low Income Home Energy Assistance Program (LIHEAP):** LIHEAP helps eligible families pay the costs of heating and insulating their homes in the winter, and cooling their homes in the summer. States determine eligibility and benefit levels based on federal law. Approximately 4 million low-income households receive assistance each year. As part of LIHEAP, the Congress sets aside emergency funds ($300 million in FY 2000) to help States meet urgent home heating or cooling needs. The President determines when an emergency warrants the release of these funds, and directs the Secretary of Health and Human Services to release the funds to the States.

✓ On January 25th, the President directed Secretary Shalala to release $45 million to eleven states that were hit hardest by increases in home heating fuel prices this winter.

✓ On February 10th, in response to further increases in the price of home heating oil, the President directed Secretary Shalala to release an additional $130 million.

✓ On February 16th, the President directed Secretary Shalala to release the $120 million remaining in the LIHEAP Emergency Fund, in response to fuel prices that kept climbing -- by more than 80 percent compared to last year in some states -- and causing significant hardship for low-income families throughout the country.

- **DOE Weatherization Assistance Program:** DOE's Weatherization Assistance Program reduces the heating and cooling costs for low-income Americans by improving the energy efficiency of their homes while ensuring their health and safety. The President is calling on Congress to fund his original request for weatherization.

✓ The FY 2000 appropriation level of $135 million will weatherize 67,340 low-income homes. The supplemental request of $19 million will restore the funding level to the President's FY 2000 request of $154 million and will weatherize an additional 7,000 low-income homes. To date, 4.7 million homes have been weatherized, however, more than 29 million households are eligible for weatherization services.

✓ This additional funding will also allow DOE to provide the resources for community agencies to employ more advanced technologies that will increase the energy savings for this under-served group. It will also enable more low-income households to moderate the impact of sudden energy commodity price increases of the type recently experienced by fuel oil consumers.

- **Small Business Administration Loans:** SBA will make loans available under existing 7(a) programs to qualified businesses that need funds to weather current problems caused by high oil prices. SBA will rely on a variety of loan programs, such as SBA*Express* and CAPLines, which are especially suitable for helping these small businesses get through this period.

✓ The President has asked Congress for a supplemental appropriation of $1 million, enough to support $86 million in loans.

✓ These loans will allow home heating oil dealers, for example, to extend flexible payment terms to their heating oil customers.

✓ Loans will also be available to other types of businesses, such as logging and trucking, which have been affected by the price spike.

pk

THE WHITE HOUSE

WASHINGTON

February 28, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: **ANN O'LEARY**
RUBY SHAMIR

TB

CC: **MELANNE VERVEER**
SHIRLEY SAGAWA
LISSA MUSCATINE
PATTI SOLIS DOYLE

Please see notes + ?s

SUBJECT: **ISSUES UPDATE**

The purpose of this memo is to provide you with brief updates on a number of national issues in which you have been involved or expressed interest.

LEGISLATIVE AND ISSUES UPDATE

Education: Tax Exemption for K-12 Education Expenses. Last week, the Senate began debate on S. 1143, a bill that would provide parents tax exemption for up to $2,000 in K-12 education related expenses for each of their children. The bill would establish Education Savings Accounts by expanding the higher-education Education IRAs to allow expenditures on, among other things, tuition, fees, room and board, academic tutoring, special need services, books, and supplies and equipment incurred in connection with enrollment in public, private, and/or religious elementary or secondary schools. The Administration sent a Statement of Administration Policy (SAP) to the Senate in strong opposition. A vote on a cloture motion is scheduled for 2:30 on Tuesday, February 29.

This proposal is not new. In 1998, the President vetoed HR 2646, the "Education Savings and School Excellence Act" that included similar provisions. In addition, a tuition tax credit proposal for K-12 was included in the Republican tax package vetoed by the President last year.

A number of States have also begun to provide tax incentives to help parents pay for K-12 education through tuition tax credits. In states that have provided tuition tax credits to parents of school-aged children – such as Minnesota, Iowa, and Arizona – the tax credits are helping higher income families that already intended to send their children to private school, rather than giving children from low-income families more choices and opportunities.

Recommendation: When you publicly speak out against vouchers, you might also consider speaking out against these tax exemption or tax credits for elementary and secondary education and equating them to vouchers. Like vouchers, these tax incentives can be criticized for: (1)

draining money away from Federal resources that improve education for all children through smaller class sizes, teacher quality, modernizing and repairing schools, and the establishment and expansion of public charter schools; (2) helping wealthy families more than low-income families; and (3) narrowing the division between church and state.

Education: Update on Reauthorization of the Elementary and Secondary Education Act (ESEA). This week, the Senate Health, Education, Labor and Pensions (HELP) committee will mark-up Senator Jeffords' proposed reauthorization of the Elementary and Secondary Education Act (ESEA). Given that the House has already passed major portions of the bill from Title I to Teacher Quality and that ESEA will expire on September 30th of this year, the Senate is feeling pressure to get a bill out of Committee and onto the floor. Senator Lott has committed to bring ESEA to the floor as soon as it is reported out of Committee (early April is the expectation).

The ESEA is only authorized every five years and was last reauthorized in 1994 with a one-year extension. ***This reauthorization will be the major Federal education framework through 2005*** and, thus, both the Republicans and Democrats are trying to shape the next stage of Federal Education policy through this bill.

HELP Committee Mark-Up of ESEA: Senator Jeffords' proposal tries to balance Republican's call for flexibility with a "stay the course" approach to keeping the law as is currently written. It does not include any of the Administration's proposals to reduce class-sizes in the early elementary grades, strengthen accountability, improve training for teachers and teachers' aides, or ensure targeted funds to our highest need communities. It does, however, maintain much of the current law of Title I, but then proceeds to include the Republican's "Straight A's" proposal which would allows States to block grant most of their Federal education dollars with no accountability.

Democrats are expected to offer amendments that represent the Democratic education priorities outlined in the Administration bill (S. 7). Senator Murray is expected to offer an amendment promoting the President's class-size reduction program. Senator Bingaman is expected to offer an amendment to strengthen accountability, which is similar to the Administration's Accountability Act. Senator Dodd plans to offer an amendment to strengthen training for child care providers and early childhood educators. Senator Kennedy is likely to offer an amendment that would address teacher recruitment and Senator Mikulski is expected to offer an amendment that would address the disparity of access to technology between high- and low-income students and school districts. Senator Harkin will advance the school modernization and construction agenda by putting forward an amendment that would help school districts either raise money for construction or provide federal assistance for emergency repairs.

how?

how?

what?

Floor Action: Once the bill reaches the Senate floor, it will intersect with the proposal of moderate Democrats led by Senator Lieberman (co-sponsors include: Senators Bayh, Landreiu, Linson, Kohl, and Wyden). Senator Lieberman's bill incorporates many of the Administration's priorities including strong accountability measures tied to greater flexibility, the promotion of public school choice, and provisions for teacher quality and teacher recruitment. The major problem with the bill is that it block grants several of the why?

Administration's top priorities, including 21st Century Community Learning Centers, Safe and Drug Free schools, technology initiatives and Reading Excellence grants.

In addition, Senator Schumer has introduced a bill, the "School Quality Counts Act," that includes the Administration's proposal for school, state, and district report cards on key quality indicators to go out to parents and community members; teacher recruitment and teacher quality provisions; and Academic Achievement Awards for schools and districts.

Youth Violence: National Campaign Against Youth Violence. On Tuesday, February 22nd, the President held a conference call to welcome and thank the newly appointed board members of the National Campaign. The President discussed the work the Campaign is doing on three fronts: a city-by-city effort to engage local communities that will be kicked off in Memphis on April 14th, a national media campaign, and a school-based program led by young people.

Board members talked about some of the work they are already doing to prevent youth violence. For example, AOL is planning a feature on its Teen Channel to allow kids to speak out on violence; Discovery will air a national town hall and produce a three-part series on youth violence; and Major League Soccer will lead an effort by professional sports leagues to promote good citizenship through sports.

Shouldn't we follow up? ASAP

The call energized the board members and several proposed some interesting ideas to the President. Steve Case pointed out that as the variety of forms of media begin to merge, it will become increasingly necessary to give parents tools to understand what is right for their kids. He further discussed the need to come together around a ratings system that makes sense for all forms of media and entertainment.

Board members include: Sherri Abufakuseh, National Youth Advisory Council; Steve Case, AOL; Mayor Bent Coles, Mayor of Boise, Idaho and Mayor-Elect to Chair U.S. Conference of Mayors; Ron Burkle, the Yucaipa Companies; Henry Cisneros, Univision; Benjamin Civiletti, former U.S. Attorney General; John Devine, New York University; Senator Dole; Jason Doresey, youth representative; Representative Jennifer Dunn; Greg Favre, the McClatchy Company; Representative Martin Frost; Donald Garber, Major League Soccer; Carter Gaston, youth representative; Leo Hindery, GlobalCenter; Todd Howard, Tommy Hilfiger; Bob Iger, Walt Disney; Rick Inatome, ZapMe!; Francine Katz, Anheuser-Busch; Mel Karmazin, CBS; Geraldine Laybourne, Oxygen Media; Ira Lipman, Guardsmark; Judith McHale, Discovery; Neal Nelinger, Banque Paribas; Dick Parsons, Time Warner; Bud Paxson, Paxson Communications; Deborah Prothrow-Stith; Eli Segal, Welfare to Work; Leigh Steinberg, Sports Management; Mayor Wellington Web, Mayor of Denver; Bob Wright, NBC; and, Anne Zehren, Teen People.

Youth Violence: White House Council on Youth Violence. Last week, Bruce Reed held the first Council meeting to discuss how various agencies could more effectively work together to prevent youth violence. Secretaries Herman, Shalala, Summers, Attorney General Reno, and Deputy Secretary Holleman were in attendance. They discussed moving forward on the Council's mission to develop a citizen's information hub, produce reports on youth violence, expand the Safe Schools/Healthy Students model of collaboration, and coordinate the federal research agenda.

In addition, Secretary Shalala applauded the idea of you hosting a White House Conference on Raising Responsible Teenagers; Secretary Summers called for a "Parents-Asking-Parents" campaign to help parents feel comfortable asking other parents if they have guns in their homes; Attorney General Reno suggested providing cities currently receiving multiple federal grants with technical assistance; and Secretary Herman suggested bringing other federal partners to the table, including HUD.

Unborn Victims of Violence Act. Last week, Assistant Attorney General Eleanor D. Acheson testified before the Senate Judiciary Committee on the Unborn Victims of Violence Act stating that the Department of Justice would recommend that the President veto the bill if it reached his desk. The legislation, which passed the House last September by a vote of 254-172, would make it a separate Federal offense to cause "death or bodily injury" to a "child in utero" in the course of committing certain specified Federal crimes. It uses violence against women as a guise for the legislation's purpose – to identify the fetus in Federal law as a separate and distinct entity, in this case, a distinct victim of a crime. In her testimony, Acheson reiterated the Administration's strong opposition to the bill saying that "identification of a fetus as a separate and distinct victim of crime is unprecedented as a matter of federal statute." She urged the Congress to reauthorize VAWA as a mechanism to diminish violence against women and said that the Administration would favor alternative legislation that would strengthen punishment for "intentional violence against women whom the perpetrator knows or should know is pregnant."

What is a rationale?

Child Custody Protection Act. The Child Custody Protection Act is expected to come up in the Senate within the next few weeks. This legislation, which proscribes the transportation of minors across states lines in an effort to circumvent state parental abortion notification laws, passed the House last year by a vote of 270 –159 (a veto-sustaining margin). Last year, we sent a SAP to the House threatening a Presidential veto because, in addition to a number of constitutional infirmities, the bill did not exclude close family members – including grandmothers, aunts, and minor and adult siblings – from criminal and civil liability for coming to the aid of a relative in distress. The bill also did not ensure that people who only provide information, counseling, referral, or medical services to the minor would not be subject to liability. The Senate bill is identical to the House bill, and we intend to send up the same SAP. Unfortunately, at this point our prospects on the vote are not looking very positive. The preliminary vote count is: 29 definitely no (including three Republicans: Jeffords, Chaffee, and Specter); 6 leaning no; 10 undecided; 4 leaning yes; and 51 definitely yes.

Civil Rights: Traffic Stops and Racial Profiling. This week the House Judiciary Committee is expected to mark up H.R. 1443, the Traffic Stops Statistics Study Act of 1999, introduced by Rep. Conyers and it is expected to go to the floor shortly thereafter. The President endorsed this legislation last year when he announced the directive on racial profiling, requiring certain federal agencies to collect data on the race, ethnicity and gender of individuals stopped or inspected by federal law enforcement. H.R. 1443 requires the Attorney General to conduct a nationwide study of stops for traffic violations by federal, state and local law enforcement officers, and provides grants to state and local agencies to assist them with data collection. As for the President's directive, plans for field tests were completed in December and the agencies have now begun data collection, with results and recommendations due at the end of this year. In the meantime, we have also created a working group to be led by Deputy Attorney General Holder to consider possible immediate changes in policy and practice.

Breastfeeding in the Workplace. This week, Congresswoman Carolyn Maloney plans to introduce a bill to amend the Pregnancy Discrimination Act of 1978 to prohibit the harassment and discrimination of women who breastfeed or express milk during their own lunch or break times at work. The Administration is coming out in strong support of the goals behind this proposal, but believes that the PDA's coverage of "pregnancy, childbirth, or related medical conditions" already encompasses breastfeeding or expressing milk. Several breastfeeding PDA cases are currently pending in the court and it is our opinion that we should wait for the Court's ruling before amending the PDA. The Administration will continue to come out in favor of Maloney's goals and will work with her staff to address this issue. Next week, the Surgeon General and Irasema Garza, Director of the Women's Bureau at the Department of Labor will hold an event with Congresswoman Maloney to rollout the bill.

CABINET REPORT
Below are selected Cabinet reports:

Department of Treasury

details?

Identity Theft: On March 15-16, following up on the President's Financial Privacy and Consumer Protection Initiative, Treasury will host the National Summit on Identity Theft. The Summit will focus on the prevention and remediation of the effects of identity theft. It will be the first national level conference of law enforcement, victims, industry and non-profits interested in this issue and will be the first step towards building a public-private partnership to combat identity theft. Secretary Summers will deliver opening remarks at the Summit.

pls. keep me informed

Vaccines: On February 22 and 25, in order to engender support for the Administration's Millennium Vaccines Initiative, Secretary Summers and NEC Director Gene Sperling met with representatives of major pharmaceutical companies and foundations to discuss the delivery and development of vaccines. On February 14 and 22, Acting Assistant Secretary for Tax Policy Talisman participated in meetings with tax representatives of the pharmaceutical industry to discuss issues relating to the proposed vaccine tax credit, which would provide a tax credit for sales of vaccines for malaria, tuberculosis, HIV/AIDs, and any infectious disease causing over one million deaths annually worldwide. This week, the President will hold a meeting on vaccines.

Department of Justice

pls. give me report

Crime Policy in the 21ST Century: On February 29, the National Institute of Justice and the Office of Policy Development will convene a seminar on public trust and confidence in the justice system, the first in a series of sessions on Crime Policy in the 21st Century. The series will bring together bipartisan groups of experts to discuss the crime policy ideas that best promise to meet the needs of communities over the next five to ten years. The first session, on public trust, will address topics including police interactions with children and minorities, jury nullification, and racial profiling. Sessions in March and April will cover sentencing and corrections policy and the role of science, such as DNA evidence, in the justice system.

Juvenile Justice Publications: DOJ expects to release *Challenging the Myths*, a bulletin extracted from OJJDP's recent *Juvenile Offenders and Victims: 1999 National Report*. The bulletin responds to the much-publicized concerns about the emergence of "juvenile superpredators." The bulletin states that, although rates of serious violence did increase in the early 1990s, levels of juvenile predatory crime have dropped since 1994. In early March, DOJ is expected to release *Overview of Portable Guides to Investigating Child Abuse: Update 2000*. This bulletin provides an overview of the series and synopses of its 13 publications to date. The Portable Guides to Investigating Child Abuse provide practical guidance for on-the-job reference by individuals investigating child abuse and neglect.

Department of Commerce

Partnership for Critical Infrastructure Protection: On February 22, Secretary Daley delivered opening and closing remarks to the National Planning Retreat of the Partnership for Critical Infrastructure Protection. DOC took the lead role in coordinating the meeting to more clearly define the working relationship between government and the private sector in ensuring the security of the nation's critical infrastructure. Upcoming DOC events include a risk assessment summit of corporate leaders and internal auditors at the White House in April, and a follow-up meeting of the Partnership for Critical Infrastructure Protection in June.

Rural and Small Market Access to Local Broadcast Signals: On February 14, DOC's National Telecommunications and Information Administration published a request for comments in the *Federal Register* regarding a public meeting on rural and small market access to local television broadcast signals to be held March 2. The notice requests public comment by April 14, with reply comments to be filed by May 15.

Department of Health and Human Services

Adolescent Behavior Problems and Alcohol Use: During the week of February 28, the Substance Abuse and Mental Health Services Administration will release a new study that shows adolescents, ages 12-17, who use alcohol are more likely to report behavioral problems, especially aggressive, delinquent, and criminal behaviors. The study concludes that there is a strong relationship between problem behaviors and alcohol use among youths, including fighting, stealing, driving under the influence of alcohol and/or drugs, skipping school, and deliberately trying to hurt or kill themselves. According to the study, adolescents who drink heavily are 16 times more likely than non-drinkers to have recently used an illicit drug. Even "light drinkers" were eight times more likely to have used an illicit drug in the past month than non-drinking adolescents. These findings are based on a new analysis of 1994-96 National Household Survey on Drug Abuse data.

FY2000 University-Head Start Partnerships and Graduate Head Start Research Projects: On February 24, a Notice was published in the *Federal Register* announcing the availability of funds for University-Head Start Partnerships and Graduate Head Start Research Projects. These grants will support research activities in the areas of infant toddler development. The maximum Federal share for the University-Head Start Partnerships is $75,000 for the first-year budget period, and approximately $150,000 for each year of the project period. It is anticipated that 4-6 projects will be funded. The Federal share for the Graduate Head Start Research Grants range between $10,000-$20,000 for the first year budget period or a maximum of $40,000 for a two-year project period. It is anticipated that five to ten projects will be funded.

Department of Housing and Urban Development

Closing the Digital Divide With Neighborhood Networks: Neighborhood Networks is a community-based initiative of HUD that encourages the development of resource and computer learning centers in privately owned HUD-assisted or HUD-insured housing. Neighborhood Networks is working to increase employment opportunities and access to health and wellness, improve educational performance of children, empower residents, increase participation by property owners and decrease dependency on federal funding.

Department of Energy

National Community Action Conference: On March 1, in Washington, DC, Secretary Richardson will address leaders of the community action agencies which administer DOE's Weatherization Assistance Program (WAP). Secretary Richardson is expected to announce the award of FY2000 weatherization grants to states, as well as changes being made to WAP. The Weatherization Assistance Program implements energy efficiency measures in low income homes to reduce energy use by an average of 25 percent. Since 1976, WAP has weatherized 4.7 million homes. The funding FY2000 will weatherize 67,340 low-income homes. WAP is a, long-term solution that seeks to make low-income communities resistant to heating oil shortages and sharp price fluctuation. DOE has proposed a new strategy called Weatherization *Plus,* which will allow local weatherization providers to expand their traditional approach of addressing heating and cooling needs to a comprehensive whole-house approach using more advanced, cost-effective technologies. It should result in greater energy savings for more low-income families, and more livable communities.

Heating Oil Crisis Studies: DOE has held initial meetings with the Energy Information Administration for the planning of studies of the effects of interruptible gas contracts and the possibilities for conversion of heating oil customers to natural gas. The conversion study was announced on February 16.

LEGISLATIVE CALENDAR

Senate

In addition to considering S. 1134, the Affordable Education Act, there is a chance that the Senate will consider S. 2081, the "Religious Liberty Protection Act" (RLPA), this week. This bill, which is sponsored by Senator Hatch (R-UT), would in many cases, forbid state and local governments from imposing a substantial burden on the exercise of religion, unless they could demonstrate that imposition of such a burden is the least restrictive means of advancing a compelling governmental interest. Although the Administration and many Senate Democrats are strongly supportive of the legislation, we remained concerned that RLPA could be used to circumvent numerous civil rights laws (for example, a landlord could potentially use the law to refuse to rent to gay couples on the basis of religion). We continue, therefore, to advocate for a civil rights exception or a more narrowly tailored provision.

House

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THE WHITE HOUSE

WASHINGTON

February 29, 2000

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: **ANN O'LEARY**
RUBY SHAMIR

CC: **MELANNE VERVEER**
SHIRLEY SAGAWA
LISSA MUSCATINE

SUBJECT: **ISSUES FOLLOW UP**

On our last issues memo you asked us for follow up in a number of areas. Below are some answers to the questions you asked.

Crime Policy in the 21st Century. You asked us for further information on the seminar being convened today and tomorrow by the National Institute of Justice and the Office of Policy Development on public trust and confidence in the justice system. This conference, the first in a series of sessions on Crime Policy in the 21st Century, stems from work the Justice Department started last year in preparation for the crime bill to gather innovative ideas for our legislative proposal. After initial focus groups with expert practitioners, criminologists, and researchers, the group decided to focus on three areas for further exploration: (1) public trust and gaining legitimacy in our justice system; (2) sentencing and corrections policy; and (3) the role of technology and science in the justice system. The series will bring together bipartisan groups of experts to discuss the crime policy ideas that best promise to meet the needs of communities over the next five to ten years.

The first session, on public trust, will address topics including police interactions with children and minorities, jury nullification, and racial profiling and will begin tonight with a presentation by Dr. Lawrence W. Sherman, Albert M. Greenfield Professor of Human Relations at the University of Pennsylvania. Attached please find the agenda and invitation for the conference and a list of conference participants. We will attend the meeting and provide you with a full briefing afterwards.

Unborn Victims of Violence Act: Follow Up. You asked us what the rationale was for supporting enhanced sentences for intentional violence against women whom the perpetrator knows or should know is pregnant. When the Unborn Victims of Violence Act came up in the House last year, Rep. Zoe Lofgren introduced a democratic alternative that would have created a separate Federal offense to commit such acts against pregnant women, but would have prosecuted the perpetrators on the basis of the harm caused to the woman (rather than harm caused to the fetus, thereby not identifying the fetus as a separate entity). The pro-choice community did not support Lofgren's alternative, and the Administration has never publicly supported it. In an effort to come out against the underlying legislation, support Democratic members, and not alienate the pro-choice community, we developed a public position which was a compromise, giving individual judges the opportunity to determine if enhanced sentencing is necessary.

Identity Theft and Financial Privacy and Consumer Protection. You asked us for details on the President's financial privacy and consumer protection Initiative. Last May, the President announced a plan for financial privacy and consumer protection which included measures to protect financial privacy, expand consumers right to information, prevent fraud and abuse, expand access to financial services and educate consumers and improve financial literacy. Please see attached fact sheet from announcement for further details.

The Identity Theft Summit that Treasury is holding in mid-March is a direct result of the President's announcement. At the May event, the President announced that the Treasury Department would convene a National Summit on identity theft and work with the private sector to help prevent this crime. This Summit is part of a larger Administration identity theft initiative that includes case referral, a public education partnership, and sentencing enhancements. In particular, this Summit will highlight areas where the public and private sectors can work together to address identity theft. We will attend the conference and provide you with a full summary afterward.

Crime Policy in the 21st Century:
Building Public Trust and Confidence in the Criminal Justice System

DRAFT AGENDA

National Institute of Justice
Office of Policy Development
U.S. Department of Justice

Arlington, Virginia

Tuesday, February 29, 2000

5:30 p.m. - 6:00 p.m. **Registration** *Francis Scott Key Ballroom Foyer*

6:00 p.m. - 6:05 p.m. **Welcome and Opening Remarks** *Francis Scott Key Ballroom*

Eleanor D. Acheson
Assistant Attorney General
Office of Policy Development
U.S. Department of Justice
Washington, DC

Jeremy Travis
Director
National Institute of Justice
U.S. Department of Justice
Washington, DC

6:05 p.m. - 6:15 p.m. **Meeting Overview and Attendee Introductions**

Francis Hartmann
Executive Director and Senior Research Fellow
Program in Criminal Justice Policy and Management
Kennedy School of Government
Harvard University
Cambridge, Massachusetts

6:15 p.m. - 7:15 p.m. **Participant Presentations**

7:15 p.m. - 8:00 p.m. **Group Discussion (Dinner is Served)**

8:00 p.m. - 8:45 p.m. **Presentation of Background Paper**

Lawrence W. Sherman
Albert M. Greenfield Professor of Human Relations
Director
Fels Center of Government
University of Pennsylvania
Philadelphia, Pennsylvania

8:45 p.m. **Closing Remarks and Adjournment**

Eleanor D. Acheson
Assistant Attorney General
Office of Policy Development
U.S. Department of Justice
Washington, DC

Jeremy Travis
Director
National Institute of Justice
U.S. Department of Justice
Washington, DC

Wednesday, March 1, 2000

8:00 a.m. - 8:30 a.m. **Registration** *Georgetown Ballroom Foyer*

8:30 a.m. - 8:40 a.m. **Welcome and Opening Remarks** *Georgetown Ballroom*

Eleanor D. Acheson
Assistant Attorney General
Office of Policy Development
U.S. Department of Justice
Washington, DC

Jeremy Travis
Director
National Institute of Justice
U.S. Department of Justice
Washington, DC

8:40 a.m. - 9:00 a.m. **Review of Prior Evening's Themes and Framing the Day Ahead**

Francis Hartmann
Executive Director and Senior Research Fellow
Program in Criminal Justice Policy and Management
Kennedy School of Government
Harvard University
Cambridge, Massachusetts

9:00 a.m. - 10:30 a.m. **Openness and Accountability in the Criminal Justice System, "In sight, it must be right"**

10:30 a.m. - 10:45 a.m.	**Break**

10:45 a.m. - 12:15 p.m. **Engaging the Community: Access, Inclusiveness, Diversity**

12:15 p.m. - 12:30 p.m.	**Break**

12:30 p.m. - 1:30 p.m.	**Working Luncheon** **(continue discussion of conference themes)**	*View Ballroom*
1:30 p.m. - 2:45 p.m.	**Treating Citizens with Respect and Dignity**	*Georgetown Ballroom*
	2:45 p.m. - 3:00 p.m. Break	
3:00 p.m. - 4:15 p.m.	**Communication with the Public**	
4:15 p.m. - 5:00 p.m.	**Synthesis of Discussion and Adjournment**	

INVITATION LETTER

U.S. Department of Justice

Washington, D.C. 20530

January 19, 2000

Reverend W. Stephen Fails
First United Baptist Church
1409 Deep River Road
High Point, NC 27265

Dear Reverend Fails:

On behalf of the Department of Justice, we would like to invite you to participate in a discussion of crime policy issues facing the country in the next decade and beyond. At an initial meeting held in May of 1999, we brought together a group of policy-oriented academics and innovative practitioners who identified three major emerging crime policy challenges and opportunities: (1) public trust and confidence in the criminal justice system; (2) sentencing and corrections; and (3) technology and crime. Enclosed is the summary from this meeting.

To explore these issues further and define in more detail particular challenges and solutions, the Office of Policy Development (OPD) and the National Institute of Justice (NIJ) will convene three additional discussions in early 2000. The first meeting will focus on building public trust and confidence in the criminal justice system, and will be held on March 1. We hope you will attend.

Public concerns about the fair and effective functioning of the criminal justice system have arisen in a variety of areas. While public perceptions may vary with community, ethnicity, and personal experience, there appears to be a broad consensus that the public's confidence and trust in the criminal justice system needs to be strengthened. We hope our meeting will further the national conversation on how to achieve this broad goal and will help develop concrete, viable ideas and initiatives.

Frank Hartmann, Executive Director of the Program in Criminal Justice Policy and Management at Harvard's Kennedy School of Government, will facilitate this work. We expect to have approximately 20 participants.

We have commissioned Dr. Lawrence Sherman, Director of the Fels Center of Government at the University of Pennsylvania, to prepare a background paper outlining available information about the state of public trust and confidence in the criminal justice system. The paper will also identify major factors that affect public confidence, and will be distributed to participants in advance of the meeting.

In preparation for the meeting, we ask that you outline your thoughts on how public trust and confidence in the criminal justice system can be strengthened and the role, if any, the federal government can play in doing so. Areas to consider may include issues of how trust and confidence is affected by a) the openness of the system, b) the ways in which the system and the public communicate with each other, c) the ways in which the system treats those who come in contact with it, d) the system's effectiveness in providing for public safety, and e) whether existing means of holding the system accountable bring about desired change. Specific suggestions you can provide of strategies to address these or related issues will help produce a useful result from the discussion. We will share the brief (two to three page) memos with the other participants before the meeting, and use the ideas generated to shape the meeting agenda. Please submit your ideas by Monday, February 14, 2000, to NIJ's conference manager, the Institute for Law and Justice (ILJ). Even if you cannot attend, we invite your input.

In addition, there will be a working dinner on the evening of Tuesday, February 29. We hope you will attend. NIJ will cover all travel-related expenses through ILJ. Please RSVP to Julie Allard at ILJ by Wednesday, January 26, at jallard@ilj.org or 703-684-5300. For more information about the content of the meeting, please contact Amy Solomon at NIJ (202-305-7941) or Andrea Tisi at OPD (202-616-2250).

We view this effort as an opportunity to step back and consider what the country and its communities need most in national direction of crime policy over the intermediate horizon and, to the extent possible, to develop effective strategies to respond to those needs. This meeting, in particular, will give us the opportunity to focus attention on the important issue of strengthening public trust and confidence in the criminal justice system. We look forward to your participation in what promises to be interesting and important work.

Sincerely,

Eleanor D. Acheson
Assistant Attorney General
Office of Policy Development

Jeremy Travis
Director
National Institute of Justice

Crime Policy Meeting, February 29 - March 1, 2000

Building Public Trust and Confidence in the Criminal Justice System

Participant Attendee List
(Attendees who will be seated at the U-Shape)

22-Feb-00

Name	Full Address	Business Telephone Number	Business Fax Number	Registration Date
Eleanor D. Acheson	Assistant Attorney General Office of Policy Development U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington DC 20530	202-514-4601	202-514-2424	04-Feb-00
David Anderson	Freelance Writer 39 W. 11th Street New York NY 10011	212-675-9538	212-675-9542	03-Feb-00
Veronica F. Coleman	U.S. Attorney Western District of Tennessee U.S. Department of Justice Federal Building, Suite 800 167 N. Main Street Memphis TN 38103-1898	901-544-4231	901-544-4230	28-Jan-00
Paul F. Evans	Police Commissioner Boston Police Department One Schroeder Plaza Boston MA 02120	617-343-4500	617-343-5003	18-Feb-00
William Stephen Fails	Pastor and Consultant First United Baptist Church Violent Crimes Task Force 1409 Deep River Road High Point NC 27265	336-882-6211	336-885-9032	28-Jan-00
Francis Hartmann	Executive Director and Senior Research Fellow Program in Criminal Justice Policy and Management Harvard University 79 John F. Kennedy Street Cambridge MA 02138	617-495-5188	617-496-9053	28-Jan-00

Name	Full Address	Business Telephone Number	Business Fax Number	Registration Date
Wade Henderson	Executive Director Leadership Conference on Civil Rights Suite 1010 1629 K Street, NW Washington DC 20006	202-466-3311	202-466-3435	03-Feb-00
Susan Herman	Executive Director National Center for Victims of Crime Suite 300 2111 Wilson Boulevard Arlington VA 22201	703-276-2880	703-276-2889	28-Jan-00
Gary R. Hinzman	District Director Sixth Judicial District Department of Correctional Services 951 29th Avenue, SW Cedar Rapids IA 52404	319-398-3675	319-398-3684	28-Jan-00
Scott L. King	Mayor of Gary 401 Broadway Gary IN 46402	219-881-1301	219-881-1337	08-Feb-00
Mike Lawlor	State Representative Connecticut General Assembly 3 Atwater Street East Haven CT 06106	860-240-0532	860-240-0021	28-Jan-00
Paul A. Logli	State's Attorney Winnebago County State's Attorneys Office 400 W. State Street, Suite 619 Rockford IL 61101	815-987-3183	815-987-3027	06-Jan-00
Tracey L. Meares	Professor of Law University of Chicago 1111 E. 60th Street Chicago IL 60637	773-702-9582	773-702-0730	28-Jan-00
Mark H. Moore	Guggenheim Professor and Director Criminal Justice Policy and Management Harvard University 79 John F. Kennedy Street Cambridge MA 02143	617-495-1113	617-495-0996	04-Feb-00
Scott C. Newman	Prosecutor Prosecutor's Office Marion County 560 City-County Building 200 E. Washington Street Indianapolis IN 46204	317-327-5662	317-327-5325	28-Jan-00

Name	Full Address	Business Telephone Number	Business Fax Number	Registration Date
Deborah Ramirez	Professor Northeastern University Law School Three Carol Lane Lexington MA 02420	617-373-4629	617-373-5056	02-Feb-00
Jerry Sanders	President and Chief Executive Officer United Way of San Diego 4699 Murphy Canyon Road San Diego CA 92123	858-636-4140	858-492-2014	31-Jan-00
Lawrence W. Sherman	Albert M. Greenfield Professor of Human Relations Director of the Fels Center of Government University of Pennsylvania 3814 Walnut Street Philadelphia PA 19104-6197	215-898-9216	215-243-1133	01-Feb-00
Cheryl Steele	Manager Community Mobilization Washington State Department of Corrections 4705 N. Addison Spokane WA 99205	509-482-3891	509-484-2006	28-Jan-00
James K. Stewart	Senior Fellow Center for Naval Analysis 4401 Ford Avenue Alexandria VA 22314	703-824-2802		04-Feb-00
Jeremy Travis	Director National Institute of Justice U.S. Department of Justice 810 Seventh Street, NW Washington DC 20531	202-307-2942	202-307-6394	04-Feb-00
Tom R. Tyler	Professor New York University Russell Sage Foundation 112 E. 64th Street New York NY 10021	212-750-6014	212-688-3393	28-Jan-00
JoAnn Wallace	Director Public Defender Services for the District of Columbia Room 219 451 Indiana Avenue, NW Washington DC 20001	202-628-1200	202-626-8423	11-Feb-00

Name	Full Address	Business Telephone Number	Business Fax Number	Registration Date
Beverly Watts Davis	Executive Director San Antonio Fighting Back 2803 E. Commerce San Antonio TX 78203	210-271-7232	210-228-0288	28-Jan-00
Fred Whiting	Senator South Dakota State Senate P.O. Box 8187 Rapid City SD 57709	605-348-0355	605-773-6806	18-Feb-00
Thomas A. Zlaket	Chief Justice Supreme Court State of Arizona 1501 W. Washington, #427 Phoenix AZ 85007	520-628-6682	520-628-6685	28-Jan-00

26 People Listed

THE CLINTON-GORE PLAN FOR
FINANCIAL PRIVACY AND CONSUMER PROTECTION IN THE 21st CENTURY

May 4, 1999

Today, President Clinton Introduces Legislative Proposals and Executive Action to Protect Consumers in the New Economy, Based on Five Principles: (1) Protect Financial Privacy; (2) Expand the Consumer's Right to Know; (3) Prevent Fraud and Abusive Practices; (4) Expand Access to Financial services; (5) Educate Consumers.

PROTECT FINANCIAL PRIVACY. Cross-industry mergers and consolidation have given banks unprecedented access to consumers' financial and medical records at just the time when new technologies have made it possible -- and potentially profitable -- for banks to mine such data. President Clinton believes that consumers deserve notice and choice about the use of their personal information, and Vice President Gore has led the Administration's efforts to protect consumers' financial and medical privacy in the new financial marketplace. Today, President Clinton announced that Congress should:

- ✓ **Give Consumers More Power Over Their Own Information.** Require institutions to inform consumers of plans to share or sell their financial information; give the consumer the power to stop it. Current law does not limit on selling or sharing of information about consumers' transactions.

- ✓ **Protect Medical Information.** Impose special restrictions on any sharing of medical information within a financial conglomerate. As banks and insurance firms merge, for example, consumers should not fear that that the results of a physical exam could be used to make a credit decision.

EXPAND THE CONSUMER'S RIGHT TO KNOW. Consumers face a bewildering array of choices in today's financial marketplace and often do not have sufficient information to make wise decisions. Aggressive marketing can obscure the truth about the financial choices a customer is being asked to make. For example, consumers are often surprised when low introductory credit card rates expire and interest rates spike. To address this, President Clinton announced that Congress should:

- ✓ **Improve Credit Card Disclosures.** Prevent misleading marketing of "teaser rates" by requiring equally prominent disclosure of expiration dates of low rates, eventual terms, and possible penalties; require disclosure of how long and how costly repayment would be if a consumer makes only the minimum payment.

- ✓ **Improve Disclosure Rules.** Improve disclosure rules for Internet credit card solicitations.

- ✓ **Require Greater Disclosure for Other Financial Products.** To allow consumers to comparison shop, require enhanced disclosures for rent-to-own arrangements, home mortgages and settlement services, and international money transfers.

- ✓ **Require Dual ATM Disclosures.** Require ATMs to provide disclosure of surcharges on the machine and the terminal screen, so consumers can shop with their feet.

PREVENT FRAUD AND ABUSIVE PRACTICES. More and more Americans are using the Internet to invest in the stock market and conduct other financial transactions. Fraud schemes -- including stock manipulation -- are uncovered each day. Off-line, old fraudulent practices continue, and new ones -- such as identity theft -- continue to arise. Low-income borrowers must often turn to unregulated, high-cost lenders whose terms are sometimes abusive. To crack down on financial fraud and attack other abuses, the Clinton Administration will:

- ✓ **Increase Funding for SEC Efforts.** Work with Congress to provide to the SEC $16.5 million ($5.5 million in addition to the $11 million increase in the FY00 budget) to increase Internet prosecutions and surveillance, enhance the SEC's Enforcement Complaint Center, and augment training for law enforcement on Internet securities fraud.

- ✓ **Fight Identity Theft.** Launch a vigorous identity theft enforcement and prevention strategy led by the Treasury Department.

- ✓ **Fight Internet Fraud.** Crack down on Internet fraud under an effort led by the Department of Justice that will step up law enforcement training and public education.

- ✓ **Stop Sub-prime Lending Abuse.** Improve reporting of high-cost mortgage loans and give the FTC and HUD adequate authority to stop sub-prime lending abuses.

EXPAND ACCESS TO FINANCIAL SERVICES. Too many Americans cannot afford, or do not have access to, basic banking services. The Administration will increase and strengthen its efforts -- working with banks and consumer groups -- to increase access to low-cost banking services to all Americans.

- ✓ **Low-Fee Banking Accounts for Federal Beneficiaries.** The Treasury Department will pay set-up costs to encourage private banks to offer low-fee banking accounts for those who receive federal benefits like Social Security.

- ✓ **Expand Individual Development Accounts (IDAs).** The President's balanced budget would provide additional funds for accounts that allow low-income families to save for education, emergencies, homeownership or business.

- ✓ **Bolster the Community Development Financial Institutions (CDFI) Fund.** The President's balanced budget would increase funding for grants, loans, and equity investments in local institutions serving low and moderate income communities.

EDUCATE CONSUMERS AND IMPROVE FINANCIAL LITERACY. The daunting complexity of financial products and choices increases the importance of consumer financial education.

- ✓ **A Plan to Raise Financial Literacy.** President Clinton today directed that the National Economic Council prepare an interagency plan to raise financial literacy and increase the government's support for consumer financial education. Under the plan, for example, the Department of Education will publicize proven educational programs that integrate financial literacy into basic school curricula.

THE WHITE HOUSE

WASHINGTON

March 1, 2000

MEMORANDUM TO HILLARY RODHAM CLINTON

FROM: **ANN O'LEARY**
RUBY SHAMIR

CC: **MELANNE VERVEER**
SHIRLEY SAGAWA

SUBJECT: UPDATE ON PUBLIC CONFIDENCE IN LAW ENFORCEMENT

The purpose of this memo is to provide you with further information about the Justice Department's conference on public trust in and integrity of the criminal justice system and to provide you with an update on related Hill action.

JUSTICE DEPARTMENT CONFERENCE ON PUBLIC CONFIDENCE

This conference directly stems out of the conversation the President and the Attorney General began last year about fairness and trust in our criminal justice system.

Background: In June of last year, the President directed the U.S. Department of Justice to begin a process of data collection to track the race, ethnicity, and gender of those who are stopped or searched by law enforcement. As we mentioned in our last update, with regard to the President's directive, plans for field tests were completed in December and the agencies have now begun data collection, with results and recommendations due at the end of this year. In the meantime, Deputy Attorney General Holder is also heading up a working group to consider possible immediate changes in policy and practice.

In addition to the directive, the Attorney General committed to amend the National Crime Victimization Survey to gather more accurate information about the public's experiences with the conduct of the police and to hold a meeting on the issue of public confidence in the criminal justice system.

Conference: The conference included expert practitioners and researchers who had submitted concept papers on how to improve public trust and confidence in the criminal justice system, prior to the conference. Themes that were present in all papers centered around greater accountability in the criminal justice system for all participants; more effectively engaging and including all community members in decision making; and, ensuring that all members of the system do a better job of treating citizens with greater respect and dignity.

Dr. Larry Sherman of the University of Pennsylvania led the conference. His paper served as a theoretical foundation for the conference and was based on the notion that while the fairness and effectiveness of the criminal justice system have objectively improved, public trust and confidence have plummeted. He documented this thesis by demonstrating that in New York City alone, incidents of police officers shooting and killing citizens have gone down from 65 individuals per year in the 1970s to 35 individuals in the early 80s to 19 individuals last year, while confidence in the police is very low and is divided along racial lines. In fact, a 1998 Gallup Poll showed that whites have almost twice as much confidence in police (61%) than do blacks (34%).

Each presenter wrote a three-page paper reacting to Dr. Sherman's paper and offering practical solutions (attached please find several of these papers). Proposed solutions included: greater diversity training for police that included basic concepts of respect and responsibility towards every member of the American public; diversity recruitment to ensure that all levels of the criminal justice system looked more like those they serve; report cards for the system and for each actor in the system (much like those proposed in education policy for schools and teachers); rewards systems to provide police with incentives to improve their actions; accountability mechanisms such as tape recording and video taping every interaction with a member of the public; sunshine policies to open up police decision-making to the public so that it seems less arbitrary; and, "hot spot" mapping to identify neighborhood crime clusters and design preventive strategies to disrupt violent crime before it happens.

Deborah Ramirez, a Professor of Law at Northeastern, made a poignant point that came up during a group discussion. She talked about the responsibility minority parents have to teach their children how to act or behave in front of police – the "always keep your hands out of your pocket and act deferential" rule. The concern that she raised about the message this lesson sends to our children reverberated around the room and focused the discussion on how we are expected to teach our children the benefits of the system, while sending them a message that the system is inherently stacked against them.

The conference drew the conclusion that we have a rising problem with public trust and confidence in our criminal justice system that is very much drawn along lines of race and class. Further, that our current system often demeans, demoralizes, and humiliates many members of the American public, and that it is our job to improve the system and create an environment in which every person is respected.

Recommendation: You could consider using your column to highlight the issue of public trust in our criminal justice system and outline ways in which we can improve this trust as recommended at the conference.

HILL ACTION ON RACIAL PROFILING

Traffic Stops and Racial Profiling. Today, the House Judiciary Committee passed by voice vote H.R. 1443, the Traffic Stops Statistics Study Act of 1999, which was introduced by Rep. Conyers. The bill has Rep. Hyde's support and, therefore, a good chance of reaching the House floor. Even though most police groups oppose this legislation, the President endorsed it last year when he announced the directive on racial profiling, requiring certain federal agencies to collect data on the race, ethnicity and gender of individuals stopped or inspected by federal law enforcement. H.R. 1443 requires the Attorney General to conduct a nationwide study of stops for traffic violations by federal, state and local law enforcement officers, and provides grants to state and local agencies to assist them with data collection. Senators Lautenberg, Feingold, Kennedy and Torricelli introduced a companion bill in the Senate where it is in committee. However, they are waiting for the House to act before they take up the bill.

In addition to this bill, Rep. Conyers also plans to introduce a new bill on police integrity, which will most likely focus on oversight of law enforcement. Although we do not yet know the content of this bill, it may resemble H.R. 2656, the Law Enforcement Trust and Integrity Act of 1999, which the Congressman introduced last summer. Some of the provisions of that bill included requiring the Attorney General to study and improve the national standards for the accreditation of law enforcement agencies, providing grants and technical assistance to states and local agencies to conduct studies of law enforcement agencies, and providing enhanced funding to combat police misconduct.

Public trust and confidence in the criminal justice system

Tom Tyler
Department of Psychology
New York University
2/9/2000

There is a widespread recognition that public confidence in the police and the courts is low among the American public, especially among minority citizens and the poor. The question is whether there are ways to increase trust and confidence. I would like to address that question by drawing upon my interview-based research on public experiences with legal authorities.

My recent research examines the willingness of citizens to accept the decisions made by police officers and judges during personal encounters with those legal authorities. I explore the factors that increase consent and deference, and lower hostility and resistance to legal authorities. In my most recent work, I have examine such encounters in Oakland and Los Angeles, concentrating on the experiences of African-American and Hispanic citizens.

Legal authorities often believe there is little they can do to increase trust, confidence, and the willing acceptance of their decisions. They see hostility, mistrust, and resistance as the inevitable result of: (1) being unable to solve people's problems and (2) having to restrict and sanction citizens. This is thought to be especially true among poor and minority citizens, who are the particular target of social regulatory efforts.

My research suggests that such views are too pessimistic. I find that citizens focus primarily upon the motives of the police officers and judges with whom they deal when deciding whether or not to accept their decisions. If they feel that those authorities are motivated by a benevolent concern about them and their welfare, they consent to decisions, even when those decisions involve negative outcomes. Hence, the way to increase trust and confidence is for legal authorities to act in ways that bolster the public view that they are truly concerned about the welfare of the citizens with whom they deal—i.e. that they are trustworthy.

What can police officers and judges do to encourage trust from citizens? My research shows that the most important factor shaping public trust in police officers and judges is fairness. If people feel that the police officers or judges with whom they have dealt acted fairly, they are more trusting of those authorities and more willing to accept their decisions.

Two aspects of fairness are especially important to citizens. First, the quality of their personal treatment by authorities. This is the most important factor that shapes citizen views about the fairness of the police officers and judges with whom they deal. Citizens focus on whether they are treated with respect and dignity, and whether or not they feel that their rights are acknowledged.

Consider a specific example. The recent attention to police-citizen interactions in New York has led to a number of in-depth interviews with citizens. One example involved interviews with minority teenagers concerning police stop and frisk efforts to find guns. Consistent with the perspective outlined here, the teenagers interviewed did not object to being stopped and searched for weapons, per se. Their grievances were about the way the police treated them during the stops. They felt disrespected and demeaned as people by the police. In other words, it was not the negative experience of being stopped that led to mistrust, but the interpersonal treatment experienced by citizens.

The second factor that defines fairness is the manner in which police officers and judges make decisions. People react favorably to decision-making when they feel that the authorities are unbiased, honest, and make their decisions based upon facts, not personal opinions.

Again, consider an example. Many discussions of minority hostility toward the police and courts emphasize the belief that the authorities treat people poorly because of their feelings about the citizen's ethnicity (i.e. they show bias). The idea that the members of some groups are treated better than the members of other groups is a prominent grievance in many surveys of public feeling. Such bias reflects poor quality decision-making, since it means that the police and courts are not objectively considering the facts of the case.

My work further shows that it is because they feel more unfairly treated that minority citizens are less trusting of legal authorities and less willing to accept the decisions made by police officers and judges. If we control upon justice-based judgments about personal experiences, ethnicity effects disappear.

In addition, this model holds true for the high risk category of citizens often identified by police officers and judges as being central to the most difficult interactions between legal authorities and citizen—young, minority, males. When I separately consider this subgroup of citizens, I find that their concerns when dealing with legal authorities are essentially the same as are those of the larger population. Like the population in general, these high risk citizens want to be treated with respect and want decisions about them to be made neutrally and objectively.

Implications

These findings have optimistic implications for the ability of legal authorities to create and sustain trust and confidence. Even when legal authorities cannot solve people's problems or must detain, cite, or even arrest citizens, they can act in ways that people experience as being fair. In this way, the police can build trust and confidence among the member of the public.

Perhaps the most counterintuitive aspect of these findings is the suggestion that the police can create and maintain public confidence in situations in which they cannot deliver favorable or desired outcomes. Yet the findings of my research strongly support this conclusion.

Policy implications

I think that the primary policy implication of my work is that we need better training of police officers and judges. Many legal authorities believe that there is no alternative but to exercise legal authority through intimidation, i.e. via the use of threats and sanctions. This view leads to the perspective that public discontent is unfortunate, but inevitable. This power-based perspective leads to two problems. First, instead of treating citizens with respect, legal authorities feel the need to intimidate citizens. Second, instead of emphasizing the neutrality of their decision-making, authorities obscure the reasons for their actions behind their emphasis on compelling obedience through threats.

If they were operating from a more positive perspective, of the type supported by my research, authorities would change their actions in two ways. First, they would recognize the value of treating citizens with dignity and respect, so as to encourage them to trust the authorities with whom they are dealing. Second, they would see the need to communicate to citizens the ways in which they are acting objectively and neutrally, by explaining and justifying their actions.

This does not mean, of course, that legal authorities have to change the decisions that they make. Instead, they need to make efforts to explain why they are acting as they do. Both of these types of behavior by legal authorities benefit the authorities by lowering tension and mistrust and increasing willing acceptance of the directives and decisions of the police and the courts.

My work suggests that legal authorities need to be educated about the benefits of a more positive, proactive, approach. A justice-based, law-abidingness, perspective encourages citizen consent and acceptance. It achieves these objectives via the fair treatment of citizens.

Effective Policing in the New Millenium: Protecting Neighborhoods From Crime and Respecting the Civil Liberties of All Residents

A paper prepared for the United States Department of Justice Meeting on Public Trust and Confidence in the Criminal Justice System, March 1, 2000, Washington, D.C.

By: Deborah A. Ramirez
Professor of Law
Northeastern University School of Law
400 Huntington Avenue
Boston, Massachusetts 02115
617-373-4629 (Office)
617-373-5056 (FAX)
E-Mail: dramirez@nunet.neu.edu

I. The Challenge for the New Millenium: Sustaining Low Rates of Crime and Enhancing Police Legitimacy

In the United States, once soaring rates of violent crime are now in dramatic decline. To the disinterested observer, it would then seem that police are doing their jobs and doing them exceedingly well. Indeed, most citizens will readily acknowledge that the streets are safer, their communities and households more secure. In large measure, public officials, policy makers and the press, have attributed these successes to the advent of "community policing."

As we enter the new millenium, the challenge that confronts American police organizations is how to sustain the historic decline in rates of criminal activity and, at the same time, enhance police legitimacy in the eyes of the communities they serve. If police are the face of democracy on the street, then within a representative democracy, the primary goals of the police organizations should be to effectively combat crime and to facilitate accountability by striving to develop community legitimacy and respect.

Although as Professor Sherman's paper indicates, in general, public confidence in the police has steadily increased, the community of color continues to express fear and distrust of the police.[1] They remain critical of the manner in which law enforcement activities are carried out in their communities and they wonder whether the success in reducing crime has been, in part, due to overly aggressive police officers who ignore the civil liberties of people of color. The recent tragic shooting death of Amadou Diallo in New York has only served to lend greater credence to this belief. Suffice it to say that this community distrust of police practices is perceived to be so pervasive that Attorney General Janet Reno has felt compelled recently to speak out on the issue of police

[1] Steven K. Smith, Greg W. Steadman, Todd D. Minton and Meg Townsend, *Criminal Victimization and Perceptions of Community Safety in 12 Cities*, 1998: (May, 1999) (Bureau of Justice Statistics and the Office

misconduct and has even gone so far as to convene a national conference on police integrity.[2] In commenting on the problem of continuing police distrust by communities of color, Reno said:

> ...the issue is not just one city. The issues is national in scope and reaches people all across this country. For too many people, especially in minority communities, the trust that is so essential to effective policing does not exist because residents believe that police have used excessive force, that law enforcement is too aggressive, that law enforcement is biased, disrespectful and unfair.[3]

President Clinton echoed her concerns a few months later saying:

> While public confidence in the police has been growing steadily overall, people of color continue to have less confidence and less trust, and believe that they are targeted for actions by the police not because of their illegal conduct but because of the color of their skin.[4]

With these public comments, Reno and Clinton effectively redefined the notion of what constitutes police success to include broad measures of legitimacy and integrity such as excessive use of force, courtesy, respect, racial profiling and any perceived issues of racial inequality. It is the thesis of this short paper that, in fact, effectiveness and legitimacy are intimately interrelated and that truly effective policing will only be achieved when police

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of Community Oriented Policing Services). Table 34 (white residents more likely than black residents to express satisfaction with police) p. 25.

[2] Kevin Johnson, *'Too Many' Believe They Can't Trust Police, Reno Says*, USA Today (4/16/99), at 8A.

[3] Attorney General's Remarks to the National Press Club on April 15, 1999. (Transcript by Federal News Service) at 1.

[4] Remarks by President Bill Clinton at Justice Department Conference on Strengthening Police-Community Relations, Marriott Wardman Park Hotel, Washington, D.C. June 9, 1999. (Transcript by Federal News Service).

both protect their neighborhoods from crime and respect the civil liberties of all residents. When law enforcement practices are perceived to be biased, unfair or disrespectful, the community is less willing to trust and confide in police officers, to report crimes that come to their attention, to participate in problem-solving activities, to be witnesses at trials or to serve on juries.

II. Utilizing Data, Information, Research and Technology, Police Have Enhanced Their Ability to Proactively Address Crime Problems.

Historically, police have defined their mission as regulatory: ensuring the greatest possible order. Their task then was reactive and involved responding to obvious signs of disorder, such as emergency calls. Realizing the profound limits of this model, the community policing strategy began to use information, technology, research and data in order to engage in more effective and better managed policing by anticipating and disrupting the causes of disorder, rather than merely reacting decisively to it. One example of this is "hot spot" mapping, a strategy whereby police began to measure violent crime by mapping the locations of it, plotting these locations, identifying crime clusters and then designing strategies to intervene and disrupt violent crime before it occurred. The federal role in this transformation was to provide technology grants, research on "promising" and "best practices," training, and to fund demonstration projects.

III. In Order to Improve Legitimacy, Police Must Begin to Measure and Manage it.

As any management consultant will tell you, you can't manage what you don't measure. If police truly want to begin to improve and manage legitimacy, they need to begin to measure it, I have listed below the kinds of data collection systems and measurements that every police organization, in collaboration with community groups, should design, implement and publicly disseminate.

A. An Annual Community Justice Audit

The purpose of the audit would be to obtain a quantitative and qualitative measure of police performance, by collecting city-level survey information about community perceptions and satisfaction with local police.
The audit will provide detailed information about how the community of color perceives and is affected by crime as well as police activities to combat crime. In using this tool, the community and the police will be soliciting feedback and participation from the community of color. From the community's perspective, it is a means of making the police accountable to the community by facilitating community monitoring and assessment of police programs. From the police perspective, the results of the audit would function as an early-warning system to help them identify areas and fine-tune and focus police training.

B.) Each Police Organization, Working With Community Groups, Should Design and Implement a Racial Profiling Data Collection System.

By providing information about the nature, character and racial and ethnic demographics of traffic and pedestrian stops, data collection efforts have the potential for shifting the rhetoric surrounding racial profiling from accusations, anecdotal stories and stereotypes to a more rational discussion about the appropriate allocation of police resources.

C.) Each Police Organization, Working With Community Groups, Should Design and Implement An Excessive Use of Force Data Collection System.

IV. The New Federal Role: Conditioning Federal Funding and Participation in Federal Training Programs on Legitimacy Reporting Requirements.

Just as the federal government now mandates information about police performance with respect to crime control by requiring a Uniform Crime Reporting System and a Hate Crimes Reporting System, federal funding of the police and participation by the police in federal training programs ought to be conditioned upon the design and implementation of yearly community justice audits, a racial profiling data collection system, and an excessive use of force reporting system.

BostonPolice
Office of the Police Commissioner 1 Schroeder Plaza, Boston, MA 02120-2014

To: Participants in the Meeting on Building Public Trust in the Criminal Justice System

From: Paul F. Evans
Boston Police Commissioner

Date: March 1, 2000

A lesson that informs Professor Sherman's analysis, as well as those of many of the other participants, is the relationship among fairness, respect and trust, in a new social context. Sherman makes many important points, two of which stood out in my mind.

First, he argues persuasively that distrust has evolved less from the substance of **what** police and the other system components do, and more from the **how** these practices are carried out. It's very rarely the speeding ticket that gets to the public. It's the perception of being demeaned in the process. Consider what irritates the public. In our 1999 Public Safety Survey in Boston, we asked the question, "During the past year have you had any negative experiences with an on-duty Boston police officer?" I am gratified that nearly 88 percent of the 2,045 respondents answered in the negative. But for the 12 percent who had a bad experience, over half said they were treated rudely or indifferently. In a related question we asked people to rate how major a problem the police use of excessive force was in their community. Only six percent thought it a "serious problem," down from 7 percent in our 1997 survey.

In his memo for this meeting, Tom Tyler of NYU writes, "My research shows that the most important factor shaping public trust in police officers and judges is fairness." Our experience in Boston bears out his point. In fact, in our surveys we measure progress on this point. In both the 1999 and 1997 surveys (the question was not asked in 1995) nearly 90 percent of respondents also believed the Boston Police were excellent, good or fair at "being fair and respectful to all people." Excellent and good made up about 65 percent of that total. However, we also found a significant difference when you compare the responses of minority individuals versus whites. About 50 percent of minority respondents reported believing that police are excellent, good or fair at being fair and respectful to all, as compared to 75 percent of whites. While we believe we have made progress in moving from conflict to conversation with Boston's African-American and other minority communities, we have still have a long way to go. In that regard, our task in Boston is affected by the second of what I saw as Sherman's key points. He underscores the importance of how police conduct themselves and how this conduct shapes perceptions.

Sherman describes an emerging sense of egalitarianism in American society that clashes with the traditional authoritarian practices of criminal justice.

> *Americans' trust in all government, not just the criminal justice system, has declined sharply in the last quarter century. A similar loss was found in 18 other nations. Citizens now expect higher levels of recognition, respect and status from all government. Their frequent contacts with criminal justice in particular – about one in five Americans each year – makes criminal justice a flashpoint for this more general demand. The flashpoint reveals a mismatch between the hierarchical design of criminal justice institutions and the egalitarian demands of the public. (Sherman, p. 10)*

If citizens in past eras did not like gruff treatment from the cops, Americans over the past 25 years have made it clear they will not stand for it. People want to be perceived more as equals, worthy of respect and dignity, in the eyes of police, judges, prosecutors and others. This has been an underpinning in Boston of our commitment to collaboration across all aspects of our Neighborhood Policing strategy. An illustrative example of this is the decentralized Strategic Planning and Community Mobilization Projects we undertook in 1995-96 and 1999-2000.

In each of these efforts, we had 400 participants, roughly half police officers and half citizen stakeholders, come together around the table, as moral and professional equals. We did this on a highly decentralized basis, with individual teams in each of our 11 police districts and six representing key, central functions, such as criminal investigations and internal affairs.

At the outset of the 1995 process, we engaged a broad cross-section of Department personnel to create an explicit mission statement for our work. The statement that emerged has served as the guiding light for the planning process. It states, "We dedicate ourselves to work in partnership with the community to fight crime, reduce fear and improve the quality of life in our communities." We then asked each team to think about how they could fulfill the mission in their particular setting.

The language of the mission statement has significance. One notes that we refer to "our" neighborhoods, not "the" neighborhoods. This reflects one of our larger goals: to change the relationship and orientation of police to community and vice versa. We sought to change the police role as remote and anonymous outsiders who only rush into the community to respond to emergencies and 9-1-1 calls. Research – and common sense - told us that officers have the most respectful, trusting and effective relationships with people they see day in and night out. They are tremendously less likely to be distant, dismissive or brusque with people they know they will see the next day. We declared loudly and clearly that the police are to part of the fabric of community life, in all its aspects.

Our belief in a decentralized planning model flowed from this commitment. We conducted planning and implementation on the highly decentralized basis to deepen the sense of ownership and accountability at the local level. I believe that this is a key to the question of trust. Mutual accountability requires that people set aside old assumptions and past battles. We wanted to look to the future. The question at issue became, not who was right or wrong in a controversy 20 years ago, but how do we work together from here to make our communities safer? The goal was to have those closest to the problems to set priorities and develop shared expectations. They reached a rough consensus on what was to be accomplished, and, at least equally importantly, **how** it was to be accomplished.

This collaboration provided our Neighborhood Policing strategy with a deep foundation of legitimacy and authenticity. Sherman and many other participants have addressed the question of authorization, because it is so centrally an ingredient in the formula for trust. Our experience in Boston provides an illustrative example.

Back in 1988-1990, a group of very dedicated Boston police officers were working very hard to get a handle on the youth gang violence problem that was then raging in our inner-city, largely African-American neighborhoods. Part of their assertive strategy was broad and vigorous use of Terry stops and field interrogation observations. That this approach was ineffective was only the lesser aspect of what was wrong with it. Not only did it not only did not work to target the tiny proportion of truly dangerous offenders, it offended the broader community. They questioned the intent of these officers. Would they use these tactics in other neighborhoods? Since they are so general in their approach, are they really interested in preventing violence or just interested in making arrests and throwing their weight around? The vast majority of law-abiding residents could only fall back on assumptions to answer these questions, because no one was asking their view. They were not involved in the authorizing process. That took place far away, in the upper echelons of some city office building, where they had no voice. And, based on historical experience, residents assumed the worst

Today, the Department leads a multi-faceted, comprehensive strategy that involves prevention, intervention and enforcement. The enforcement component is much tougher than that of the late 1980's and early 90's. How can this be so? Because we now agreement among a broad array of stakeholders, about which offenders represented the greatest threat and, therefore, had to be dealt with in the most serious way. We now have greater credibility, because community residents, through their leaders, have a voice in the authorization process. The police learned from the community that that you have to be credible on prevention if you want to be credible on enforcement, and vice versa. Community leaders, such as the clergy organized into the Ten Point Coalition, learned the same lesson. They not only had to take a chance on trusting the police. One of the founders of Ten Point, Rev. Dr. Raymond Hammond, uses this succinct phrase: "There is a ministry for every youth, but for some it's a prison ministry." We only got to the point at which an African-American religious leader could make this statement, because of the trust built case by case.

Residents feel better about their police department and their neighborhoods. In 1995, about 60 percent of respondents indicated confidence in the ability of the Boston police to prevent crime. In 1999, that proportion was up to about 84 percent. More importantly, however, respondents feel significantly better about their neighborhoods. In 1995, 1997 and 1999 we asked the following question: "How do you feel out alone in your neighborhood at night?" In 1995, about 55 percent reported feeling safe. By 1997 that proportion was up to about 76 percent. In 1999, the number was 78 percent.

In his paper, Professor Sherman suggests,

It seems more likely that the distrust of police in high-crime areas is driven more by crime than by police practice. If it is driven by police practice, it may be the failure of such practices to prevent crime, rather than en excess of police presence. (Sherman, p. 8)

It may be that we are at the threshold of a formula for building safe and civil communities. Building on Sherman's analysis, we can suggest that, first, police and community must come together as equals, agreeing to hammer out shared expectations on both outcomes and methods. As I believe we learned in Boston over the past 8 years, this shared ownership and accountability makes for a much more effective policing process. As we go forward, trust, on the one hand, and effectiveness and fairness on the other, feed off one another.