

ARMS Email System

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Leanne A. Shimabukuro (SHIMABUKUR_L) (OPD)

CREATION DATE/TIME:26-NOV-1996 19:09:59.11

SUBJECT: NEW YORK CITY MAYOR: HEVESI SAYS HE WON'T RUN

TO: Dennis Burke (BURKE_D) (OPD)

READ: 1-DEC-1996 17:06:42.79

TEXT:

NEW YORK CITY MAYOR: HEVESI SAYS HE WON'T RUN

NYC Comptroller Alan Hevesi (D), the "great question mark" of the mayoral race who "tried the patience of the political establishment by drawing out his decision," bowed out of the contest, citing his wife's illness (Firestone, N.Y. TIMES, 11/26). The news was a "bombshell" to his fellow Dems who believed he could be the "strongest challenger" to Mayor Rudy Giuliani (R). Carol Hevesi has a "chronic and painful back ailment that drove her to attempt suicide in 1994." Alan Hevesi: "This is not a time for me and my family to be involved in the kind of tough, grueling political combat that the mayoral election represents. ... It's not an issue of fire in the belly. I intend at some time to run for higher office." He will instead seek re-election as Comptroller, the post he first won in '93. The decision dealt a "major setback to a broad coalition" of Dems who have been trying to recruit a "well-known centrist" to run. Party leaders said the search will continue, although they "conceded that time is running short and nearly every Democrat who boasts the qualities they seek has opted out of the race," such as NYC Public Advocate Mark Green, NYC Council Speaker Peter Vallone, Rep. Charles Schumer (D-09), ex-Rep. Geraldine Ferraro, and NY Comptroller Carl McCall (Lombardi/Siegel, N.Y. DAILY NEWS, 11/26).

COULDA BEEN A CONTENDER: Many Hevesi backers "saw in him the foundation for a strong challenge" to Giuliani's base of white middle-class voters in Queens, Brooklyn and Staten Island -- a base that Manhattan Borough Pres. Ruth Messinger (D) or Bronx Borough Pres. Fernando Ferrer (D) "may find more difficult to shatter." The campaign has been heating up in recent weeks, with Giuliani and Messinger "trading insults and radio ads" over the issue of superstore development. Some pols have suggested that "through his exchanges" with Messinger, Giuliani "might have succeeded in sending a signal to Mr. Hevesi about the bloodletting of the campaign to come" (N.Y. TIMES, 11/26). Queens Co. Dem leader/Rep. Tom Manton (D-07): "I guess we're back to square one" (N.Y. DAILY NEWS, 11/26).

EFFECT ON THE DEMS: Barring a "surprise entry" like ex-Police Commis. William Bratton, the decision leaves Messinger and Ferrer as the Dem "frontrunners" (N.Y. TIMES, 11/26). N.Y. DAILY NEWS' Lombardi writes Messinger "may have gained most, because

she and Hevesi were seen as direct rivals for the same base of Jewish and black voters in a [Dem] primary." She "now is viewed as the one to beat" in the primary, because Dem primary voters "tend to be more liberal than the larger electorate." Ferrer "now is viewed as having a better shot of gaining support" from Dem leaders outside the Bronx; Manton is "said to be leaning in Ferrer's direction." Ferrer's base among Hispanics "isn't big enough" to win the primary for him. But if he picks up support from Manton and the unions that "held out" for Hevesi, he could give Messinger a fight. The Rev. Al Sharpton (D) "may become more of a factor" because black political leaders "could be more reluctant to abandon" the only black cand. The only announced hopeful, Brooklyn City Councilmember Sal Albanese (D), "remains an underdog" but he "could gain support among party activists who had encouraged Hevesi to run." Bratton "now moves to the head of the list of political shining knights" who may run. "So far he's just flashing his badge, but pressure now mounts for the former top cop to run or keep quiet." Messinger, on Hevesi's announcement: "Well, put it this way, it doesn't hurt" (11/26). The entry of Sharpton is "so certain to hurt Democrats that some mayoral aides are joking about sending contributions." Bronx Dem leader Roberto Ramirez, a Ferrer backer, said Hevesi's decision "will force fence-sitters to choose": "I think we're out of candidate Xs. There's no question Alan being out there was a bar to people who were not sure what the final landscape was going to look like." Labor leader Dennis Rivera said, "At this moment, we do not have a candidate in mind" (Seifman, N.Y. POST, 11/26). Other Dem possible: Queens D.A. Richard Brown.

EFFECT ON RUDY: The mayor and his advisers "seemed buoyed by the news." Liberal Party boss/Giuliani adviser Ray Harding: "It's a minus for the Democrats. Hevesi was unquestionably their strongest candidate" (N.Y. DAILY NEWS, 11/26). Sen. Al D'Amato, who has endorsed Giuliani but has not always gotten along with him, said the news "demonstrates how strong he is that the strongest potential opponents -- many of them -- seem to be taking a pass on it" (N.Y. POST, 11/26). Koch said Giuliani is "a very lucky man": "We don't know what will happen, but at this particular moment, Giuliani can go to sleep nights not looking over his shoulder." Dinkins: "I really do think Alan could have beaten him, but I think he [Giuliani] is capable of self-destructing." Dinkins said "he believed either Messinger or Ferrer" could beat the mayor: "The big thing will be the anti-Giuliani vote, not pro-Messinger or pro-Ferrer" (Moses/Willen, NEWSDAY, 11/26).

===== CAMPAIGNS OF '98 =====

ARMS Email System

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Leanne A. Shimabukuro (SHIMABUKUR_L) (OPD)

CREATION DATE/TIME:10-DEC-1996 13:16:32.44

SUBJECT: NEW YORK CITY MAYOR: BRATTON IS LATEST DEM TO SAY NO

TO: Dennis Burke (BURKE_D) (OPD)

READ:10-DEC-1996 13:43:48.26

TEXT:

NEW YORK CITY MAYOR: BRATTON IS LATEST DEM TO SAY NO

Dems "yearning for a stronger candidate" to run against Mayor Rudy Giuliani (R) "suffered their second disappointment" when ex-Police Commis. William Bratton bowed out of the race. The withdrawal of Bratton -- like that of NYC Comptroller Alan Hevesi (D) two weeks ago -- "stripped the Democratic Party of any marquee name party leaders had hoped would oust" Giuliani. Bratton said he decided not to run because of his "commitment to his new job in the security business": "I can't do business and run a political campaign. Either I do it full-time or I don't do it." His departure left the Dem field as Manhattan Borough Pres. Ruth Messinger, Bronx Borough Pres. Fernando Ferrer, Brooklyn City Councilmember Sal Albanese and the Rev. Al Sharpton. Messinger is "considered the frontrunner," but "none has amassed anywhere near the \$6.2 million Giuliani has raised." And many Dems have "whispered" that none has the "middle-of-the-road credentials needed to win the mayoralty, a complaint that has proved groundless in the past when liberal-looking candidates" -- ex-Mayors Ed Koch and David Dinkins, for example -- "shattered that bit of conventional wisdom." Before he was forced out by Giuliani, Bratton served as police commis. during a period when "crime dropped sharply," and he was the only cand. to have a better favorable rating than the mayor in a Quinnipiac College poll conducted last month. But Bratton has "limited experience in electoral politics," and the poll showed he would lose a head-to-head matchup with Giuliani. Some said he "showed his inexperience in how he handled his mini-candidacy. It was only after he floated the possibility of a run ... that he began serious rounds of telephone calls to labor leaders, political figures and others who would have had to play a major role in his candidacy" (Murphy, NEWSDAY, 12/10). Bratton said he "wasn't worried about raising money" because of his "visibility." But some pundits "said he was having a hard time lining up Democratic Party support." Said one "top" Dem: "People weren't exactly knocking down his door" (Seifman, N.Y. POST, 12/10). N.Y. TIMES' Firestone writes that Bratton was "unable to generate" enough support. "Few politicians saw in him the breadth of experience or political savvy to pose a serious threat" to the mayor (12/10). N.Y. POST front-page screamer: "Brat's All, Folks!" (12/10). Other Dems who said no to a mayoral run: NYC Public

Advocate Mark Green, NYC Council Speaker Peter Vallone, ex-Rep. Geraldine Ferraro, Rep. Charles Schumer (D-09) and state Comptroller Carl McCall.

DEM FIELD: N.Y. POST's Seifman writes, "It's time for the Democratic Party to perform a reality check." Some Dem leaders, such as Rep. Charles Rangel (D-15) and labor leader Dennis Rivera -- "seem to believe the race needs rattling because the current crop of contenders isn't up to the task of unseating" Giuliani. These "disenchanted" leaders are "still beating the political bushes for a candidate, but with little luck. And the clock is running" (12/10). N.Y. DAILY NEWS editorial says Bratton's departure "leaves a weak Democratic field even weaker. Surely a party that boasts 2.5 million registered voters can do better. Indeed, the Democrats must do better if Mayor Giuliani is to get the credible challenge he needs." But with 11 months to go before election day, Dems "seem mired in the politics of the past. If they don't snap out of it, they all will be history. And deservedly so" (12/10). But Dinkins said of Bratton's decision: "The likelihood is that this settles the field, and we will choose among the candidates who are out there" (N.Y. DAILY NEWS, 12/10).

SHARPTON: In the months since Sharpton announced his intention to run, many have "speculated" whether he was "truly serious." But he has "taken a series of steps" that may end such doubts, such as leaving the Englewood, NJ apartment he lives with his wife and children for a six-bedroom house in Brooklyn's Flatbush section; to run for NYC mayor, a candi. must live in the city for 30 days before the primary (Hicks, N.Y. TIMES, 12/8). N.Y. POST's Kerrison writes, "There is no truth to the rumor that New Jersey is about to declare a public holiday to celebrate this event, although it certainly merits consideration." While Sharpton has said "flat-out that God was backing his campaign ... Al, of course, does not have a prayer of winning the Democratic primary, much less the mayoralty. ... In a primary that figures to be a yawn, he will provide comic relief. Beyond that, it's hard to make a case for him" (12/10). N.Y. POST's Seifman says the "too-well-known" Sharpton "could sink the entire Democratic ship. He could easily draw enough black votes [in the primary] ... to prevent either Messinger or Ferrer from getting the 40 percent needed to avert a bloody runoff between the top two contenders" (12/10). Primary: 9/9.

===== CAMPAIGNS OF '98 =====

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jeanne Lambrew (CN=Jeanne Lambrew/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 6-OCT-1997 13:36:27.00

SUBJECT: attempt #2

TO: JFrizzera (JFrizzera @ hcfa.gov @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

TEXT:
ADDITIONAL Q.S. AND AS

To be added as #2

Q: New York,s Governor and Congressional Delegation have made it clear that no less than a &hold harmless8 outcome (meaning the state owes no money to the Federal government) to the Administration,s review of provider taxes would be acceptable. They feel the HCFA action taken today unfairly exposes New York to over \$500 million in liabilities that the state,s Medicaid program cannot afford to pay. Don,t you care about the hospitals and the poor people that the Medicaid program serves?

A: First, the President,s record of support for the Medicaid program is longstanding and clear. He fought long and hard to ensure that the program would not be block granted and that guarantee of health coverage for millions of Americans would be preserved.

Second, the announcement today makes clear that New York cannot be held liable for over \$1 billion in regional provider taxes that were previously in question. This is -- without question -- the largest provider tax that New York relied on and, as such, today,s action relieves the state of major budgetary concerns.

Third, the outstanding provider taxes still in question are just that -- still in question. There are a number of provider taxes that appear to be out of compliance with current law and regulation. As the government,s enforcement agency for Medicaid, HHS must make certain that all state taxes comply with the law. However, this is the beginning of the process. New York, and every other state notified today that they may be similarly out of compliance, will have the opportunity to provide information to illustrate that their cited provider tax is consistent with the law.

But let,s be clear: to ensure the Medicaid program is well run and serves the taxpayers who support it, we must be certain that the Federal Treasury is not impermissibly being tapped to underwrite costs that are the responsibility of the states. To not do so would be unfair to those other states (and the taxpayers who support them) who are in compliance.

Add at the end:

Q: The Mayor,s Office, the Governor,s Office, the New York

Hospital Association, and even Al Sharpton are threatening to sue the Federal Government over this provider tax issue. Do you have any response to these threats?

A: They certainly have the right to sue, but we would hope that these parties would allow the Governor,s office and the Health Care Financing Administration to work through the normal process before they pursue a lengthy and potentially expensive legal response. We do believe, however, that the Courts will uphold the Department,s interpretation of the law and the regulations that interpret the statute.

Q: What about the issue of the constitutionality of the line item veto and Senator Moynihan,s indication that he supports a challenge of the President,s veto?

A: We believe that the President,s line item veto power authority, which was authorized in statute by the Congress, would be upheld in any court challenge.

Q: What is the White House,s involvement in this issue?

A: Medicaid enforcement actions are handled directly by the Department of Health and Human Services, and the Health Care Financing Administration (HCFA) in particular. As we do for all similar types of public announcements, the White House and the Office of Management and Budget have reviewed HCFA,s policy clarifications and preliminary findings on states, compliance with current law and regulations related to provider taxes. However, the White House has no direct involvement with enforcement actions and negotiations with individual states.

Ms. Ann Clemency Kohler, Director
Office of Medicaid Management
New York State Department of Health
ESP Corning Tower Building, Room 1466
Albany, New York 12237

Dear Ms. Kohler:

This letter informs you about the current status of the Health Care Financing Administration,s (HCFA,s) review of your health care-related tax programs.

As you know, Public Law 102-234, &The Medicaid Voluntary Contribution and

Provider-Specific Tax Amendments of 1991 amended provisions of Title XIX of the Social Security Act (the Act) and established new limitations on Federal financial participation (FFP) when States receive funds donated by providers and revenues generated by certain health care related taxes. The law also established a definition of the types of health care related tax revenues States are permitted to receive without a reduction in FFP. Such taxes are broad based taxes which apply to all health care providers in a given class in a uniform manner and which do not hold taxpayers harmless for their tax costs.

Based on information received by HCFA, the State of New York generates revenue from at least thirty-one (31) health care related tax programs. We have reviewed these tax programs and have made preliminary determinations that they fall into the following categories.

Permissible Health Care Related Taxes

HCFA has determined that several of your provider taxes are permissible and require no further review.

First, HCFA has published in the October 8, 1997 Federal Register a correcting amendment to the provider tax regulation regarding its interpretation of the uniformity test. It lowers the threshold for allowable tax programs based on regional variations, enacted and in effect prior to November 24, 1992. The correction is to conform the regulation to HCFA and Congress's intent to recognize such taxes as generally redistributive. Based on information given to HCFA staff verbally by the State, we believe that this change affects New York's regional tax, making it permissible. However, to ensure that the tax is permissible, we ask that you submit in writing the information necessary to confirm our mutual understanding about New York's regional tax structure.

Page 2 - Ms. Ann Clemency Kohler, Director

Second, you have submitted requests for a waiver of the broad based and uniformity requirements for the following three (3) health care related tax programs:

1. Statewide Planning and Research and Cooperative System Fee Assessment - 0.1% of the total cost of inpatient hospital services.
2. Statewide Planning and Research and Cooperative System Fee Assessment - 0.1% of total cost of outpatient hospital services.
3. Supplemental Commercial Insurer Differential - 11% of inpatient hospital rates of payment charged to commercial insurers.

Section 1903(w)(3)(E)(ii)(1) of the Act specifies that the Secretary shall approve an application for a waiver of the broad based and uniformity requirements if the State establishes to the satisfaction of the Secretary that the net impact of the tax and associated expenditures under title XIX as proposed by the State is generally redistributive in nature. Section 42 CFR 433.68(e)(2) defines the numerical test to determine whether a tax

is generally redistributive. This test basically requires the State to calculate the slope of two linear regressions to assess the relationship between each provider's tax contribution and Medicaid revenue both if the tax program were broad based and uniform (defined as B1) and the tax program as proposed (defined as B2). If the State demonstrates to the satisfaction of the Secretary that the value of B1/B2 is 1 or greater, HCFA will automatically approve the waiver request.

Although the waiver test calculations you submitted were performed incorrectly, HCFA re-calculated the test based on the data provided in these waiver requests and these three (3) health care related tax programs meet the generally redistributive waiver test threshold.

Finally, the State of New York has provided information that the assessment on services provided in intermediate care facilities for the mentally retarded (ICFs/MR) is applied at a uniform rate to all providers in the class, and does not hold taxpayers harmless for their tax costs. Therefore, the ICF/MR tax, imposed under the Health Facilities Cash Receipts Assessment Program, is permissible.

Potentially Impermissible Taxes

Two types of New York provider taxes appear to be impermissible. First, several taxes do not appear to be broad based since they are not applied to a permissible class of providers. The State of New York, under the Health Facilities Cash Receipts Assessment Program, imposes a 0.6% tax on personal care services, mental retardation day treatment services, licensed freestanding comprehensive primary care treatment center services, licensed freestanding dental treatment center services, licensed freestanding dialysis treatment center services, licensed freestanding rehabilitation therapy treatment center services, and licensed freestanding speech and hearing treatment center services.

Page 3 - Ms. Ann Clemency Kohler, Director

In addition, under the Patient Services Payment Allowance, the State of New York imposes a variable assessment between 5.98%-8.18% on licensed freestanding comprehensive primary care treatment center services, licensed freestanding dental treatment center services, licensed freestanding dialysis treatment center services, licensed freestanding rehabilitation therapy treatment center services, and licensed freestanding speech and hearing treatment center services.

The State of New York has requested that all of these classes of services be recognized as permissible. The State provided analysis to support the request for additional classes of health care items or services.

As you know, none of the health care related taxes and fees imposed on the above mentioned services are identified in section 1903(w)(7)(A) of the Social Security Act or section 433.56(a) of the implementing Federal regulation as permissible classes of health care items and services. In addition, the Secretary may establish, by regulation, other permissible classes of health care items and services that meet a set of identifiable criteria. However, we have reviewed your tax programs and do not believe

these classes of health care services should be recognized as permissible classes of health care items and services (see enclosed State Medicaid Director,s letter for criteria used in this assessment). However, Section 433.56(a) does identify dental services, rehabilitation therapy services, speech therapy services, and audiological therapy services as permissible classes of health care services. To the extent the State of New York imposes a tax on all providers of these services in the State at a uniform rate, without holding taxpayers harmless, the tax would be considered permissible.

Second, you have submitted requests for a waiver of the broad based and uniformity requirements for the following five (5) health care related tax programs:

1. Bad Debt and Charity Care for Financially Distressed Hospitals Allowance - .235% on the non-Medicare revenues for inpatient hospital services.
2. Health Care Services Allowance - .23% on the non-Medicare revenues for inpatient hospital services.
3. Bad Debt and Charity Care and Capital Statewide Pool Assessment - 1% of inpatient hospital service revenue.
4. Health Facilities Cash Receipts Assessment Program - overall 0.6% of inpatient hospital service revenue
5. Health Facilities Cash Receipts Assessment Program - overall 0.6% of outpatient hospital service revenue

Page 4 - Ms. Ann Clemency Kohler, Director

Based on the information provided in your waiver requests, informal communication between New York State staff and HCFA staff to date, and re-calculations performed by HCFA, it appears that these five (5) health care related tax programs do not meet the generally redistributive waiver test threshold.

Request for Additional Information

For HCFA to assess the permissibility of your other health care-related tax programs that have raised questions, more information is needed.

First, the State of New York believes that these user and licensing fees are not health care related taxes. These include the following user or licensing fees: a \$.50 per triplicate prescription user fee; a \$1,000 certificate of need application user fee, plus an additional fee of .4% of project costs; a .9% mortgage development user fee, and a .2% mortgage operational user fee; a .9% mortgage closing user fee and a .5% mortgage refinancing user fee; and licensing fees of \$600, \$20, \$50 for the manufacturing and dispensing of controlled substances.

HCFA believes the above mentioned user and licensing fees meet the

definition of section 1903(w)(7)(F) of the Act which specifies that the term &tax8 includes any licensing fee, assessment, or other mandatory payment and, therefore, are health care related taxes. In order for these health care related taxes to be considered permissible, they must be broad based, uniform, and not hold taxpayers harmless for their tax costs. Therefore, we ask that you please submit requests for waivers of the broad based and uniformity requirements for each of these fees.

Second, you have submitted requests for a waiver of the broad based and uniformity requirements for seven (7) additional health care related tax programs, listed below:

1. Health Facilities Cash Receipts Assessment Program - 0.6% on the monthly cash receipts received from certified home health agency and long-term home health care services and other operating income.
2. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for inpatient hospital services
3. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for outpatient services
4. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for ambulatory surgical center services
5. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for freestanding clinical laboratory services

Page 5 - Ms. Ann Clemency Kohler, Director

6. Health Maintenance Organization (HMO) Differential - variable assessment on inpatient hospital service revenue: Also, please revise the generally redistributive waiver test calculation to include hospital specific data.
7. Nursing Facility Cash Receipts Assessment Program - 0.6% on assessable income for nursing facility services: Also, Please provide a copy of the State statute enacting the nursing facility cash receipts assessment program. It is not clear which provision of the State statute permits the exclusion of the St. Francis Geriatric and Health Center and the Osborne Home. These two facilities were not discussed in the summary you provided.

For each of these tax programs, you should revise the generally redistributive waiver test calculations for these health care related taxes to include all revenues related to providers in the B1 portion of the calculation. In addition, please remove all providers that are excluded from the assessment from the B2 portion of these calculations. The availability of this information is necessary to determine whether these taxes are in compliance.

A representative of HCFA will be contacting you shortly to arrange a meeting for discussion of our mutual efforts going forward. Our goal is to work together with you having in mind your State,s concerns and our legal obligation. We understand that only a joint effort can bring a smooth resolution to this matter.

[RO?]
Richardson
State Operations

Sally K.
Center for Medicaid and
State Operations

Director

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D75]MAIL411305877.216 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D75]MAIL421305878.216 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 2 =====

ADDITIONAL Q.S. AND AS

To be added as #2

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understanding about New York's regional tax structure.

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Although the waiver test calculations you submitted were performed incorrectly, HCFA recalculated the test based on the data provided in these waiver requests and these three (3) health care related tax programs meet the generally redistributive waiver test threshold.

Finally, the State of New York has provided information that the assessment on services provided in intermediate care facilities for the mentally retarded (ICFs/MR) is applied at a uniform rate to all providers in the class, and does not hold taxpayers harmless for their tax costs. Therefore, the ICF/MR tax, imposed under the Health Facilities Cash Receipts Assessment Program, is permissible.

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In addition, under the Patient Services Payment Allowance, the State of New York imposes a variable assessment between 5.98%-8.18% on licensed freestanding comprehensive primary care treatment center services, licensed freestanding dental treatment center services, licensed freestanding dialysis treatment center services, licensed freestanding rehabilitation therapy treatment center services, and licensed freestanding speech and hearing treatment center services.

The State of New York has requested that all of these classes of services be recognized as permissible. The State provided analysis to support the request for additional classes of health care items or services.

As you know, none of the health care related taxes and fees imposed on the above mentioned services are identified in section 1903(w)(7)(A) of the Social Security Act or section 433.56(a) of the implementing Federal regulation as permissible classes of health care items and services. In addition, the Secretary may establish, by regulation, other permissible classes of health care items and services that meet a set of identifiable criteria. However, we have reviewed your tax programs and do not believe these classes of health care services should be recognized as permissible classes of health care items and services (see enclosed State Medicaid Director's letter for criteria used in this assessment). However, Section 433.56(a) does identify dental services, rehabilitation therapy services, speech therapy services, and audiological therapy services as permissible classes of health care services. To the extent the State of New York imposes a tax on **all** providers of these services in the State at a uniform rate, without holding taxpayers harmless, the tax would be considered permissible.

Second, you have submitted requests for a waiver of the broad based and uniformity requirements for the following five (5) health care related tax programs:

1. Bad Debt and Charity Care for Financially Distressed Hospitals Allowance - .235% on the non-Medicare revenues for inpatient hospital services.
2. Health Care Services Allowance - .23% on the non-Medicare revenues for inpatient hospital services.
3. Bad Debt and Charity Care and Capital Statewide Pool Assessment - 1% of inpatient hospital service revenue.
4. Health Facilities Cash Receipts Assessment Program - overall 0.6% of inpatient hospital service revenue
5. Health Facilities Cash Receipts Assessment Program - overall 0.6% of outpatient hospital service revenue

Based on the information provided in your waiver requests, informal communication between New York State staff and HCFA staff to date, and re-calculations performed by HCFA, it appears that these five (5) health care related tax programs do not meet the generally redistributive waiver test threshold.

Request for Additional Information

For HCFA to assess the permissibility of your other health care-related tax programs that have raised questions, more information is needed.

First, the State of New York believes that these user and licensing fees are not health care related taxes. These include the following user or licensing fees: a \$.50 per triplicate prescription user fee; a \$1,000 certificate of need application user fee, plus an additional fee of .4% of project costs; a .9% mortgage development user fee, and a .2% mortgage operational user fee; a .9% mortgage closing user fee and a .5% mortgage refinancing user fee; and licensing fees of \$600, \$20, \$50 for the manufacturing and dispensing of controlled substances.

HCFA believes the above mentioned user and licensing fees meet the definition of section 1903(w)(7)(F) of the Act which specifies that the term "tax" includes any licensing fee, assessment, or other mandatory payment and, therefore, are health care related taxes. In order for these health care related taxes to be considered permissible, they must be broad based, uniform, and not hold taxpayers harmless for their tax costs. Therefore, we ask that you please submit requests for waivers of the broad based and uniformity requirements for each of these fees.

Second, you have submitted requests for a waiver of the broad based and uniformity requirements for seven (7) additional health care related tax programs, listed below:

1. Health Facilities Cash Receipts Assessment Program - 0.6% on the monthly cash receipts received from certified home health agency and long-term home health care services and other operating income.
2. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for inpatient hospital services
3. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for outpatient services
4. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for ambulatory surgical center services
5. Patient Services Payment Allowance - variable rate between 5.98%-8.18% on the payment rates for freestanding clinical laboratory services

6. Health Maintenance Organization (HMO) Differential - variable assessment on inpatient hospital service revenue: Also, please revise the generally redistributive waiver test calculation to include hospital specific data.
7. Nursing Facility Cash Receipts Assessment Program - 0.6% on assessable income for nursing facility services: Also, Please provide a copy of the State statute enacting the nursing facility cash receipts assessment program. It is not clear which provision of the State statute permits the exclusion of the St. Francis Geriatric and Health Center and the Osborne Home. These two facilities were not discussed in the summary you provided.

For each of these tax programs, you should revise the generally redistributive waiver test calculations for these health care related taxes to include all revenues related to providers in the B1 portion of the calculation. In addition, please remove all providers that are excluded from the assessment from the B2 portion of these calculations. The availability of this information is necessary to determine whether these taxes are in compliance.

A representative of HCFA will be contacting you shortly to arrange a meeting for discussion of our mutual efforts going forward. Our goal is to work together with you having in mind your State's concerns and our legal obligation. We understand that only a joint effort can bring a smooth resolution to this matter.

[RO?]

Sally K. Richardson
Director
Center for Medicaid and State Operations

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-FEB-1999 15:23:54.00

SUBJECT: proposed police brutality meeting for Friday 2/26

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

This is horribly long, and I haven't been able to reach DB about his suggestions... It appears that the issue is heating up -- Hugh Price and Al Sharpton are planning a press conference on police brutality at the Press Club on Thursday.

DPC meeting on police brutality for Friday, 2/26

Proposed invitees:

Bruce Reed - DPC

Elena Kagan - DPC

Jose' Cerda -DPC

Leanne Shimabukuro -DPC

Irene Bueno - DPC

Maria Echaveste - CoS

Chris Edley

Ben Johnson - PIR

Eddie Correia - WH Counsel

Bill Lann Lee - AAG Civil Rts

Bill Yeomans - Civil Rts

Julie Fernandes -DOJ/Civil Rts

Eric Holder - DAG

Brian Jackson - DOJ/DAG

Nick Gess - DOJ/DAG

Ann Harkins - DOJ/AG

Dennis Burke - DOJ/OLA

Mary Jo White - DOJ/US Atty** [While some concerns may be raised about inviting her, some at DOJ believe she is in a position to assure others that significant action is being taken on NY case.]

Chuck Ruff should also be notified as an FYI since he has expressed interest.

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: TFreedma@aol.com@INET@LNGTWY (TFreedma@aol.com@INET@LNGTWY [OPD])

CREATION DATE/TIME:23-FEB-1999 03:55:55.00

SUBJECT: tom

TO: Thomas L. Freedman@eop (Thomas L. Freedman@eop [OPD])
READ:UNKNOWN

TEXT:
FOR RELEASE: February 3, 1999
WOMEN POWER HILLARY TO SENATE LEAD OVER GIULIANI,
QUINNIPIAC COLLEGE POLL FINDS;
MAYOR TOPS D'AMATO AMONG GOP AND ALL VOTERS

A 22-point lead among women voters gives First Lady Hillary Rodham Clinton a 51 - 42 percent lead over New York City Mayor Rudolph Giuliani in their undeclared race for the U.S. Senate, according to a Quinnipiac College poll released today. Men voters favor Mayor Giuliani 49 - 44 percent, while women voters back Mrs. Clinton 58 - 36 percent. The two candidates are tied at 46 percent among upstate voters, while Giuliani has a 50 - 45 percent edge -- a statistical tie -- among suburban voters. Among New York City voters, Clinton leads 64 - 31 percent. In another question, which does not compare candidates, the independent Quinnipiac College Poll finds both Clinton and Giuliani are well-regarded among New York voters:

If Clinton is the Democratic candidate for Senate, 57 percent of all registered voters say they are very likely or somewhat likely to vote for her, while 79 percent of Democratic voters say they are very likely or somewhat likely to vote for her.

If Giuliani is the Republican candidate for Senate, 54 percent of all registered voters say they are very likely or somewhat likely to vote for him, while 71 percent of Republican voters say they are very likely or somewhat likely to vote for him.

If former Sen. Alfonse D'Amato gets the GOP nod to run again, 40 percent of all voters are very likely or somewhat likely to vote for him, while 15 percent are not too likely and 42 percent are not likely at all. Among Republicans, 66 percent are very likely or somewhat likely to vote for D'Amato.

"Is this real? Mrs. Clinton hasn't said a word about running, but she does better than candidates who are testing the waters. This looks like more than just name recognition, because Mayor Giuliani, former

Sen. D'Amato and even Rev. Al Sharpton have name recognition," said Maurice Carroll, director of the Quinnipiac College Polling Institute.

"Would this good feeling endure if Mrs. Clinton went from being a dream candidate to being a real candidate in a real campaign with real opposition?

"If Giuliani decides to run, he gives the Republicans a strong -- and real --

New York candidate. D'Amato does well among Republican voters, but he has a big negative among the general electorate," Carroll said.

"Among the other possible candidates, only New York City Public Advocate Mark

Green registers on the name recognition scale, with 35 percent saying they might vote for him.

"Rev. Al Sharpton is known, but not liked: 67 percent of all voters say they

are not likely at all to vote for him if he were the Democratic candidate for Senate. Among black voters, 41 percent say they would

be very likely or somewhat likely to vote for Sharpton, while 56 percent say they would not be very likely or not likely at all to vote for him."

New Yorkers are split on whether a Senate candidate should live here, with 46

percent saying they would be less likely to vote for a non-resident and 49 percent saying it would make no difference. Among Hillary Clinton supporters, 31 percent say they are less likely to vote for a non-New Yorker, while 65 percent say it makes no difference. Among Giuliani supporters, 64 percent say they would be less likely to vote for a non-resident, while 30 percent say

it makes no difference.

"Half of our registered voters tell Quinnipiac College it doesn't make any difference if their Senate candidate lives here," Carroll

said. "Maybe that just reflects unhappiness with the current crop of New York

politicians. Could this happen in any other state?"

From January 26 - February 1, Quinnipiac College surveyed 1,191 New Yorkers who say they are registered voters. The poll

has a margin of error of +/- 2.8 percent. The Quinnipiac College Poll, directed by Douglas Schwartz, conducts public opinion

surveys in New York, New Jersey and Connecticut as a public service and for research.

5. If First Lady Hillary Rodham Clinton is the Democratic candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for her, or haven't you heard enough about her?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	32%	25%	46%	26%	11%	53%	23%	24%	37%
Smwht likely	25	27	22	27	17	26	31	24	26
Not too likely	9	11	6	10	10	6	13	12	7
Not likely at all	31	35	22	34	60	12	29	36	26

Haven't hd enough	2	2	3	2	2	2	3	2	2
Refused	1	1	1	1	1	1	1	1	1

6. If New York City Public Advocate Mark Green is the Democratic candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for him, or haven't you heard enough about him?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	10%	3%	21%	7%	3%	16%	8%	9%	11%
Smwht likely	25	14	36	29	15	32	25	25	25
Not too likely	11	11	10	15	13	11	13	14	10
Not likely at all	18	18	16	21	29	11	20	21	16
Haven't hd enough	35	53	17	27	40	29	34	30	38
Refused	1	1	1	2	1	-	1	1	1

7. If The Reverend Al Sharpton is the Democratic candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for him, or haven't you heard enough about him?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Wht	Blk	His
Very likely	4%	2%	7%	4%	1%	7%	3%	1%	24%	6%
Smwht likely	6	5	8	4	3	8	4	3	17	11
Not too likely	13	14	13	9	10	15	13	11	23	10
Not likely at all	67	60	66	80	75	63	69	73	33	71
Haven't heard enough	9	18	4	2	11	6	11	11	3	2
Refused	1	1	1	1	1	-	1	1	-	-

8. If United States Representative Carolyn Maloney is the Democratic candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for her, or haven't you heard enough about her?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	6%	4%	10%	4%	2%	10%	3%	4%	7%
Smwht likely	18	13	24	17	12	19	20	16	19
Not too likely	9	8	9	9	9	8	9	10	7
Not likely at all	15	13	16	15	25	9	15	19	11
Haven't hd enough	52	61	40	53	51	53	52	49	55
Refused	1	1	-	2	2	1	-	1	1

9. If United States Representative Nita Lowey is the Democratic candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for her, or haven't you heard enough about her?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	4%	2%	6%	6%	-	9%	2%	4%	5%
Smwht likely	10	4	15	14	4	13	10	10	10
Not too likely	8	6	9	11	11	7	7	10	7
Not likely at all	13	13	12	15	22	9	14	17	10
Haven't hd enough	63	74	57	54	62	60	67	59	67
Refused	1	1	1	1	1	-	1	1	1

10. If New York City Mayor Rudolph Giuliani is the Republican candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for him, or haven't you heard enough about him?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	22%	16%	23%	30%	36%	13%	24%	27%	18%

Smwht likely	32	39	23	33	35	29	31	31	33
Not too likely	12	13	10	13	9	14	13	12	12
Not likely at all	28	21	41	23	12	39	26	27	29
Haven't hd enough	5	10	1	1	7	3	5	2	6
Refused	1	1	2	-	-	2	1	1	1

11. If Former United States Senator Alfonse D'Amato is the Republican candidate for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for him, or haven't you heard enough about him?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	14%	11%	13%	19%	26%	7%	13%	18%	11%
Smwht likely	26	29	19	28	40	16	26	23	28
Not too likely	15	16	14	14	12	14	16	13	16
Not likely at all	42	40	49	36	18	59	42	43	41
Haven't hd enough	3	3	3	2	3	2	2	2	3
Refused	1	1	2	-	1	1	1	1	1

12. If United States Representative Rick Lazio is the Republican candidate

for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for him, or haven't you heard enough about him?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	3%	1%	2%	7%	7%	2%	2%	3%	3%
Smwht likely	8	7	6	13	14	5	7	9	7
Not too likely	8	7	10	7	5	9	9	9	7
Not likely at all	17	12	22	18	8	23	18	17	16
Haven't hd enough	63	73	57	55	66	59	63	60	65
Refused	1	1	2	-	-	2	1	1	1

13. If United States Representative Peter King is the Republican candidate

for Senator, would you be very likely, somewhat likely, not too likely, or not likely at all to vote for him, or haven't you heard enough about him?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Very likely	3%	1%	2%	7%	5%	2%	3%	3%	3%
Smwht likely	11	8	9	17	12	8	12	12	10
Not too likely	10	6	14	10	8	10	12	11	8
Not likely at all	19	14	26	19	13	29	16	20	18
Haven't hd enough	56	70	47	46	61	49	56	51	60
Refused	2	1	3	-	-	2	2	2	1

14. If the election for United States Senator in the year 2000 were being held today and the candidates were Hillary Rodham Clinton, the Democratic candidate, and Rudolph Giuliani, the Republican candidate, for whom would you vote?

	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Men	Wom
Rodham Clinton	51%	46%	64%	45%	16%	79%	48%	44%	58%
Giuliani	42	46	31	50	80	17	44	49	36
DK/NA	6	8	5	5	4	4	8	7	6

14A. If a candidate for Senate does not live in New York State, does that make

you more likely to vote for them, less likely or doesn't it make a difference?

					Clinton	Giulani			
	Tot	Ups	NYC	Sub	Rep	Dem	Ind	Voter	Voter
More likely	3%	3%	2%	3%	5%	4%	2%	3%	4%

Less likely	46	48	37	52	63	34	48	31	64
Doesn't make diff.	49	47	57	44	32	60	48	65	30
DK/NA	2	2	3	-	1	1	2	2	2

http://www.quinnipiac.edu/polling/nyspolls.html===== ATTACHMENT 1
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ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
id <01J828TGLCQO0002LA@PMDF.EOP.GOV> for Freedman_T@a1.eop.gov; Mon,
22 Feb 1999 23:27:25 EST

Received: from storm.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
with ESMTP id <01J827V533MO000ATX@PMDF.EOP.GOV> for Freedman_T@a1.eop.gov;
Mon, 22 Feb 1999 23:00:18 -0500 (EST)

Received: from imo12.mx.aol.com ([198.81.17.2])
by EOP.GOV (PMDF V5.2-29 #34437) with ESMTP id <01J827UI8EEE0015RH@EOP.GOV>
for Freedman_T@A1.EOP.GOV; Mon, 22 Feb 1999 22:59:40 -0500 (EST)

Received: from TFreedma@aol.com by imo12.mx.aol.com (IMOV18.1)
id TERMa04796 for ; Mon,
22 Feb 1999 22:58:33 +0000 (EST)

X-Mailer: AOL 3.0 16-bit for Windows sub 41

===== END ATTACHMENT 1 =====

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:25-FEB-1999 11:53:13.00

SUBJECT: Re: Hugh Price Letter.

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

CC: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

CC: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

No its not going to go away. I thought the press conference was very focused and thoughtful. I was surprised to see the how broad the coalition was, which leads me to believe this may be a good time to do more than we discussed yesterday. Even Sharpton was careful not to criticize the POTUS too harshly.

Maria Echaveste
02/25/99 10:51:49 AM
Record Type: Record

To: Robert B. Johnson/WHO/EOP, Minyon Moore/WHO/EOP, Elena Kagan/OPD/EOP, Charles F. Ruff/WHO/EOP

cc:

bcc:

Subject: Re: Hugh Price Letter.

are you watching the press conference--it's long and every paragraph starts with Mr President----thanks for getting the letter to Price, this isn't going away

Robert B. Johnson
02/25/99 09:35:39 AM
Record Type: Record

To: Phillip Caplan/WHO/EOP
cc: See the distribution list at the bottom of this message
Subject: Hugh Price Letter.

The President's letter was delivered to Hugh Price at the Press Club twenty minutes ago. Mr. Price accepted the letter from the intern in full view of reporters and cameras.

Message Copied

To: _____
Maria Echaveste/WHO/EOP
Charles F. Ruff/WHO/EOP
Elena Kagan/OPD/EOP
Bruce N. Reed/OPD/EOP
Ann F. Lewis/WHO/EOP
John Podesta/WHO/EOP
Minyon Moore/WHO/EOP

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 8-JUN-1999 14:09:15.00

SUBJECT: Executive Order on Racial Profiling

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:
----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on
06/08/99 02:13 PM -----

Courtney O. Gregoire
06/08/99 01:52:27 PM
Record Type: Record

To: Leanne A. Shimabukuro/OPD/EOP
cc:
Subject: Executive Order on Racial Profiling

June 4, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: Executive Order on Race Profiling

You are scheduled to participate Wednesday in an hour-long roundtable discussion with about 30 representatives of the civil rights and law enforcement communities, possibly including Jesse Jackson, Kweisi Mfume, Al Sharpton, Wade Henderson, Hugh Price, FOP President Gil Gallegos, Boston Police Commissioner Paul Evans, and Baltimore Police Commissioner Thomas Frazier. This discussion is meant to help the civil rights and law enforcement communities find common ground on how to deal with police abuse and misconduct, including racial profiling. Although the Attorney General, Chuck Ruff, and I have met with most of the invitees in preparation for this meeting, many remain skeptical about each other's motives and about what the meeting will accomplish. We are hopeful that your involvement in the roundtable will help keep the civil rights and law enforcement communities working together on this issue.

Also in preparation for this meeting, we have worked with the Departments of Justice and Treasury to draft an executive order on this issue. The order starts with a preamble expressing, in general but strong terms, opposition to the use of racial profiling as a tool of law enforcement. The order then directs federal law enforcement agencies to set up a system to collect data on the race, ethnicity, color, and gender of the persons they stop, search, or otherwise examine. Within one year of implementing this system, the Attorney General must report the data collected and make any appropriate recommendations on how to promote greater fairness in federal law enforcement. Justice, Treasury, and the DPC believe that this order would constitute an effective way of demonstrating federal leadership in this area. The executive order essentially would do at the federal level what the civil rights community most wants done at the state and local levels (and what legislation by Congressman Conyers would require): institute a strong system of data collection and reporting to determine and disclose exactly where racial and other discrimination exists in traffic stops and other contacts with law enforcement.

Chris Edley has proposed a different kind of executive order, which would expressly prohibit (though, as explained below, perhaps with an exception) federal law enforcement officers from taking race, ethnicity, and other specified traits into account when making stop and search decisions. This approach would require you to confront quite explicitly a difficult issue (which the data collection order allows you to avoid, at least for now): whether to allow the U.S. Border Patrol to continue its current practice of using a person's perceived national origin or ethnicity (essentially, whether the person looks Hispanic) in deciding what cars to search near the border. The Edley executive order would either (1) effectively prohibit this practice, in the face of the strong view of both the INS and Main Justice that it is an integral part of effective border enforcement, or (2) include a specific provision allowing the Border Patrol (the largest federal law enforcement agency and the one that most regularly conducts traffic stops) to continue this practice notwithstanding that it at least appears inconsistent with the general principles underlying the order. Because DOJ, Treasury, and the Counsel's Office object to the first approach on substantive grounds (believing that where national origin is an element of the suspected criminal offense, this kind of practice is both appropriate and necessary) and because DOJ and the DPC object to the second approach on political grounds (believing that it will cause a firestorm within the Hispanic community), all your agency and White House advisors oppose Edley's alternative executive order.

A more difficult question concerns whether to issue any executive order on Wednesday. The Justice Department strongly believes that the data collection order is necessary to show that we are making progress on this issue and doing something more than just talking. Both Justice and Treasury also believe deeply in the need for data collection and reporting, and worry that if we do not issue this order now, we also will find reasons not to issue it in the future. Counsel's Office, on the other hand, recommends that you put off issuing the data collection order and simply engage in general discussion of racial profiling at the conference. Chuck notes that the order may displease both sides of the

debate -- the civil rights community because it does not expressly prohibit all federal law enforcement officers from engaging in all kinds of racial profiling, the law enforcement community because it does demand collection and reporting of racial and other data (which most law enforcement groups strongly oppose at the local level). He also notes that we will be issuing this controversial order before any members of the civil rights and law enforcement communities have had a chance to speak with you directly on the issue, perhaps appearing to preempt the very discussion in which you will be participating.

DPC believes this is a close issue, but ultimately comes down on the side of releasing the executive order on Wednesday. To the extent that release of this order on Wednesday will provoke criticism on one side or the other (or both), we do not think the order will become any less controversial with the passage of time. (We are mindful that the crime bill is being marked up this week by the House Judiciary Committee and that the support of the law enforcement community for our crime proposals is important; we believe, however, that through careful consultations, we can minimize any adverse effect of this executive action on the broader debate in Congress.) We also believe, as noted above, that this executive order does something useful and allows us to exercise leadership in this area.

_____ Sign the executive order to collect data on federal law enforcement stops.

_____ Do not sign the executive order to collect data on federal law enforcement stops.

_____ Let ,s discuss.

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D89]ARMS237253561.136 to ASCII,
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

June 4, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: Executive Order on Race Profiling

You are scheduled to participate Wednesday in an hour-long roundtable discussion with about 30 representatives of the civil rights and law enforcement communities, possibly including Jesse Jackson, Kweisi Mfume, Al Sharpton, Wade Henderson, Hugh Price, FOP President Gil Gallegos, Boston Police Commissioner Paul Evans, and Baltimore Police Commissioner Thomas Frazier. This discussion is meant to help the civil rights and law enforcement communities find common ground on how to deal with police abuse and misconduct, including racial profiling. Although the Attorney General, Chuck Ruff, and I have met with most of the invitees in preparation for this meeting, many remain skeptical about each other's motives and about what the meeting will accomplish. We are hopeful that your involvement in the roundtable will help keep the civil rights and law enforcement communities working together on this issue.

Also in preparation for this meeting, we have worked with the Departments of Justice and Treasury to draft an executive order on this issue. The order starts with a preamble expressing, in general but strong terms, opposition to the use of racial profiling as a tool of law enforcement. The order then directs federal law enforcement agencies to set up a system to collect data on the race, ethnicity, color, and gender of the persons they stop, search, or otherwise examine. Within one year of implementing this system, the Attorney General must report the data collected and make any appropriate recommendations on how to promote greater fairness in federal law enforcement. Justice, Treasury, and the DPC believe that this order would constitute an effective way of demonstrating federal leadership in this area. The executive order essentially would do at the federal level what the civil rights community most wants done at the state and local levels (and what legislation by Congressman Conyers would require): institute a strong system of data collection and reporting to determine and disclose exactly where racial and other discrimination exists in traffic stops and other contacts with law enforcement.

Chris Edley has proposed a different kind of executive order, which would expressly prohibit (though, as explained below, perhaps with an exception) federal law enforcement officers from taking race, ethnicity, and other specified traits into account when making stop and search decisions. This approach would require you to confront quite explicitly a difficult issue (which the data collection order allows you to avoid, at least for now): whether to allow the U.S. Border Patrol to continue its current practice of using a person's perceived national origin or ethnicity (essentially, whether the person looks Hispanic) in deciding what cars to search near the border. The Edley executive order would either (1) effectively prohibit this practice, in the face of the strong view of both the INS and Main Justice that it is an integral part of effective border enforcement, or (2) include a specific provision allowing the Border Patrol (the largest federal law enforcement agency and the one that most regularly conducts traffic stops) to

continue this practice notwithstanding that it at least appears inconsistent with the general principles underlying the order. Because DOJ, Treasury, and the Counsel's Office object to the first approach on substantive grounds (believing that where national origin is an element of the suspected criminal offense, this kind of practice is both appropriate and necessary) and because DOJ and the DPC object to the second approach on political grounds (believing that it will cause a firestorm within the Hispanic community), all your agency and White House advisors oppose Edley's alternative executive order.

A more difficult question concerns whether to issue any executive order on Wednesday. The Justice Department strongly believes that the data collection order is necessary to show that we are making progress on this issue and doing something more than just talking. Both Justice and Treasury also believe deeply in the need for data collection and reporting, and worry that if we do not issue this order now, we also will find reasons not to issue it in the future. Counsel's Office, on the other hand, recommends that you put off issuing the data collection order and simply engage in general discussion of racial profiling at the conference. Chuck notes that the order may displease both sides of the debate -- the civil rights community because it does not expressly prohibit all federal law enforcement officers from engaging in all kinds of racial profiling, the law enforcement community because it does demand collection and reporting of racial and other data (which most law enforcement groups strongly oppose at the local level). He also notes that we will be issuing this controversial order before any members of the civil rights and law enforcement communities have had a chance to speak with you directly on the issue, perhaps appearing to preempt the very discussion in which you will be participating.

DPC believes this is a close issue, but ultimately comes down on the side of releasing the executive order on Wednesday. To the extent that release of this order on Wednesday will provoke criticism on one side or the other (or both), we do not think the order will become any less controversial with the passage of time. (We are mindful that the crime bill is being marked up this week by the House Judiciary Committee and that the support of the law enforcement community for our crime proposals is important; we believe, however, that through careful consultations, we can minimize any adverse effect of this executive action on the broader debate in Congress.) We also believe, as noted above, that this executive order does something useful and allows us to exercise leadership in this area.

_____ Sign the executive order to collect data on federal law enforcement stops.

_____ Do not sign the executive order to collect data on federal law enforcement stops.

_____ Let's discuss.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATION DATE/TIME: 9-JUN-1999 00:06:28.00

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [OPD])
 READ:UNKNOWN

TEXT:
CONFERENCE ON STRENGTHENING POLICE-COMMUNITY RELATIONS
ROUNDTABLE DISCUSSION
SEATING CHART

Wade	Ron	Penny	
Chuck	Bill Lann	Chris	
Charles	John		
Henderson	Daniels	Harrington	Sha-King
Lee	Stone	Ogletree	Justice

Al
Ken
Sharpton
Lyons

Gil
Karen
Gallegos
Narasaki

Sheila
Robert
Jackson-Lee
Stewart

Eric
Ray
Holder
Fisher

Dan

Richard
Smith
Green

Rodney
Ron
Slater
Neubauer

Beverly
Antonia
Watts-Davis
Hernandez

Robert
Anthony
Scully
Williams

Thomas	Kweisi	Paul	THE
Frazier	Hugh	Janet	Raul
PRESIDENT	Mfume	Evans	
Yzaguirre	Price	Reno	

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 9-JUN-1999 00:06:03.00

SUBJECT: participants list

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TEXT:

CONFERENCE ON STRENGTHENING POLICE-COMMUNITY RELATIONS
PARTICIPANTS FOR THE ROUNDTABLE DISCUSSION

CHAIR

President William J. Clinton

PARTICIPANTS

Attorney General Janet Reno

Deputy Attorney General Eric H. Holder, Jr.

Associate Attorney General Raymond C. Fisher

Acting Assistant Attorney General Bill Lann Lee, Civil Rights Division

Secretary Rodney Slater, Department of Transportation

Ronald Daniels, Center for Constitutional Rights

Paul Evans, Boston Police Department

Thomas Frazier, Baltimore Police Department

Gilbert Gallegos, Fraternal Order of Police

Richard Green, Crown Heights Youth Center

Penny Harrington, National Center for Women in Policing

Wade Henderson, Leadership Conference on Civil Rights

Antonia Hernandez, Mexican American Legal Defense & Educational Fund

John Justice, National District Attorneys Association

Representative Sheila Jackson Lee, 18th District, Texas

Ken Lyons, International Brotherhood of Police Officers

Kweisi Mfume, NAACP

Karen Narasaki, Asian Pacific American Legal Consortium

Ron Neubauer, International Association of Chiefs of Police

Professor Charles Ogletree, Harvard Law School

Hugh Price, National Urban League

Robert Scully, National Association of Police Organization

Rev. Al Sharpton, National Action Network

Chuck Sha-King, Youth Force

Dan Smith, National Sheriff's Association

Robert Stewart, National Organization of Black Law Enforcement Executives

Christopher Stone, Vera Institute of Justice

Beverly Watts-Davis, San Antonio Fighting Back
Mayor Anthony Williams, District of Columbia
Raul Yzaguirre, National Council of La Raza

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:11-JUN-1999 12:13:29.00

SUBJECT: weekly

TO: Kathleen K. Ahn (CN=Kathleen K. Ahn/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:

Police Integrity/Trust Building Conference

We are receiving positive feedback from those in attendance at the conference as well as from people throughout the US who heard about it . The civil rights leaders were especially pleased with your remarks and directives on racial profiling. Hugh Price and Al Sharpton both made favorable comments to the press and agreed that the conference was a good start. Sharpton was pleased that he got a chance to speak his piece and was grateful that you took time to greet Mrs. Diallo.

We followed up the conference by faxing your federal agency directive to minority news outlets and urban talk show hosts. Tom Joyner, gave your remarks positive coverage on his show which was broadcasted to close to 100 stations nationally. Please note that minority police officers have offered their support for your efforts to curtail racial profiling.

The 1999 Diversity Conference

I spoke at the Conference Board's diversity conference in San Francisco. As you are aware these are the folks who are on the cutting edge of diversity from corporate America. We discussed the new markets initiatives and other issues aimed at closing the opportunity gap between the races. Additionally, at our request, some in attendance agreed to use their web-sites to broadcast anti-racist slogans e.g. celebrate diversity its good for the country.

Juvenile Justice Bill

Civil rights groups and religious organizations have expressed opposition to the Senate juvenile crime bill (S.254) and the new version of the House bill (H.R. 2037). In a meeting with Wade Henderson and representatives from the NAACP, ACLU, the Urban league and the National Council of Black Churches, we got an earful about the concern that these bill will have on minority youth. They are particularly concerned that (S.254) will gut current law Disproportionate Minority Confinement Provisions which will allow states to discontinue their efforts to address the well-documented problem of disproportionate minority confinement by removing a language relative to race. According to 1992 data, black males were almost 4 times more likely than white youths to be admitted to state juvenile facilities. They voiced strong opposition to allowing for the prosecution of children as young as 13 and 14 as adults. They voice similar concern over the easing of long-standing federal law preventing contact between

children and adult inmates. They cited research that children in adult institutions are five times more likely to be sexually assaulted and eight times more likely to commit suicide than children confined in a juvenile facility.

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:18-JAN-2000 10:32:20.00

SUBJECT: NAACP Boycott

TO: Eric P. Liu (CN=Eric P. Liu/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

CC: Anna Richter (CN=Anna Richter/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TEXT:

DLINE: High Priority Vowed for Racial Issues; Democrats Spar on Police Profiling in Debate Featuring Much Agreement

BYLINE: Ceci Connolly; Thomas B. Edsall, Washington Post Staff Writers

DATELINE: DES MOINES, Jan. 17

BODY:

Vice President Gore and Bill Bradley appealed to minority voters in a debate here tonight by promising to put racial issues at the top of their agenda and seeking to outbid and discredit each other on diversity and civil rights.

Their testiest exchange of the hour-long debate came over racial profiling, with Bradley pointedly questioning why the Clinton-Gore administration has not taken action to ban the use of race as a factor in random searches by police.

"Al, I know that you would issue an order to end racial profiling if you were president of the United States," Bradley said. "But we have a president now. You serve with him. I want you to walk down that hallway, walk into his office and say: 'Sign this executive order today.' "

Gore shot back: "I don't think President Bill Clinton needs a lecture from Bill Bradley about how to stand up and fight for African Americans and Latinos in this country. It's one thing to talk the talk. It's another thing to walk the

walk."

Gore and Bradley, two Democrats with strong records on race, agreed broadly on most issues during the televised "Black-Brown Forum" held on the federal holiday honoring the Rev. Martin Luther King Jr., but their sometimes hostile rhetoric underscored the high stakes of the caucuses to be held here in a week.

Bradley, who trails Gore in polls in this state but is tied in a new poll for the Feb. 1 New Hampshire primary, backed off one of his most controversial positions, which called for adding gays to the protected classes of the 1964 Civil Rights Act.

His stand had been criticized by civil rights leaders and gay activists who fear reopening the act in a Republican-led Congress would lead to fewer protections for minorities. During tonight's debate, moderated by Tavis Smiley of Black Entertainment Television, Gore revived the criticisms, suggesting Bradley's approach "could lead to it [the law] being seriously damaged and even lost." Bradley then tempered his earlier position: "Now, would I send such a piece of legislation to Congress if I thought the 1964 Civil Rights Act was going to be opened up? Absolutely not."

The two candidates revealed subtle but significant differences when asked about Al Sharpton, an African American political activist in New York who has made statements regarded as antisemitic and anti-white, and John Rucker, the white Atlanta Braves pitcher who disparaged minorities, gays and immigrants in a recent interview in Sports Illustrated. He has been ordered to undergo psychological testing by Major League Baseball.

Bradley, after twice calling him "John Rooker," called for harsh treatment of the pitcher, adding, "I wouldn't be disappointed if they fired him." The former New Jersey senator was far more forgiving of Sharpton and defended his trip last year to the black leader's Harlem neighborhood.

"I don't agree with Al Sharpton on everything, but I think that he's got to be given respect, and people have to be allowed to grow," Bradley said.

"It's a sad time when we don't look at somebody as they move through life, and we get them stuck at a particular position in life."

Gore, on the other hand, has refused Sharpton's entreaties for a public visit, although he noted tonight he did meet privately with Sharpton last year.

Referring to today's commemoration of King's birthday, Gore struck a chord of forgiveness in the case of Rucker, who he said has met with former Atlanta mayor Andrew Young and baseball legend Hank Aaron. "I think that America is all about redemption and part of the message of Dr. King is to love your enemies and plant the seeds of reconciliation in their hearts," the vice president said.

The two candidates seized on the refusal of the GOP presidential candidates to denounce the flying of the Confederate battle flag over the South Carolina capitol. Bradley, calling the flag an "offense to our common humanity," did not reply to the more difficult question of whether he would join the NAACP's boycott of the state. Gore said: "I do not think a president of the United States should ever boycott an individual state because the president needs to bring our people together and we need to bring the Confederate flag down."

In this state, where Hispanics now substantially outnumber African Americans, Gore and Bradley both promised to appoint Latinos to prominent government posts. Gore was equivocal in his response to the question of whether he would appoint the nation's first Latino Supreme Court justice and Bradley said: "No commitment today, but commitment that there are many who could."

On the fate of Elian Gonzalez, both Democrats refused to say whether they believe the young Cuban boy should be sent back to his father in Cuba or remain with other relatives in the United States.

The candidates showed a willingness to review current law prohibiting convicted felons from voting. Gore said he would not lift the prohibition for violent criminals under any circumstances. Bradley said that in the case of a nonviolent offender who "comes out and is able to go straight for two years,

three years, I think that that person ought to be able to wipe his record clean and start the day anew."

He was also critical of disparate sentencing between blacks and whites and called for equalizing penalties for crack, which is more prevalent in the minority community, and powder cocaine, found more often in white areas.

Both Bradley and Gore marked the King birthday during the morning, Gore in Atlanta, Bradley here in Des Moines.

During a service at historic Ebenezer Baptist Church, Gore wrapped much of his stump speech in the legacy of the slain civil rights leader. He even managed to link King to his ongoing assault on Bradley's health plan, a proposal Gore says jeopardizes the Medicare and Medicaid programs. "And I see a day when we strengthen Medicare and Medicaid--which were created during Dr. King's lifetime, and must not be torn down in ours," Gore said in a low-key 15-minute address.

With former Boston Celtics star center Bill Russell at his side, Bradley appeared at two King birthday events--one sponsored by Iowa Gov. Tom Vilsack (D), the other a discussion of race at Drake University.

Although Bradley has been critical of the Clinton administration's ethical standards, he went out of his way to link himself to Clinton's racial stands. On race, he said: "I'm more similar to Bill Clinton than I am to any other politician." Polls show that Clinton continues to receive some of his highest favorability ratings from African Americans, and this support is reflected in Gore's decisive margins over Bradley among black voters.

Bradley told the students: "It is your generation that can blow away the acrid smell of racial discrimination. . . . We are at a time when we have the opportunity to reconstruct the racial question that made such progress in the 1960s." Child poverty and child health care are the issues on which to build a new, multiracial coalition, he said.

Staff writer Ben White contributed to this report.

Democratic presidential candidates Bill Bradley and Vice President Gore take their places before Des Moines debate.

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Theo Yedinsky <Tyedinsky@dlcppi.org> (Theo Yedinsky <Tyedinsky@dlcppi.org> [UNKNOWN])

CREATION DATE/TIME:13-MAR-2000 14:25:33.00

SUBJECT: Fwd: Lieberman as Veep Would Help Gore Move Toward Center

TO: Andy Rotherham (CN=Andy Rotherham/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

I would just like it noted that I made this call in New Orleans in the
spring of 99....t

Theo Yedinsky
Democratic Leadership Council
Director: Project on America, the New Global Economy, and Trade
www.dlcppi.org
600 Pennsylvania Ave, SE Suite 400
Washington, DC 20003
p:202-608-1243
f:202-544-5002
Date: Mon, 13 Mar 2000 14:05:57 -0500
From: Jordan Matyas <JMatyas@dlcppi.org>
Subject: Lieberman as Veep Would Help Gore Move Toward Center
To: aballas@dlcppi.org, AFrom@dlcppi.org, Ainter2@dlcppi.org,
aintern1@dlcppi.org, amietus@dlcppi.org, Amym@dlcppi.org,
Aosman@dlcppi.org, ARotherham@dlcppi.org, Arung@dlcppi.org,
asaunders@dlcppi.org, calston@dlcppi.org, cdunham@dlcppi.org,
dboyland@dlcppi.org, dcox@dlcppi.org, DDavis@dlcppi.org,
DINTERN2@dlcppi.org, dkendall@dlcppi.org, dross@dlcppi.org,
DWilson@dlcppi.org, eculbertson@dlcppi.org, ekilgore@dlcppi.org,
FINTERN1@dlcppi.org, FINTERN2@dlcppi.org, hmilby@dlcppi.org,
hpage@dlcppi.org, hwuerfmannsdobler@dlcppi.org, ieditor@dlcppi.org,
igraves@dlcppi.org, JBates@dlcppi.org, jcallahan@dlcppi.org,
jedwards@dlcppi.org, jfitzpatrick@dlcppi.org, JHasselmann@dlcppi.org,
jjaynes@dlcppi.org, jkizerball@dlcppi.org, jlemieux@dlcppi.org,
JMatyas@dlcppi.org, julevich@dlcppi.org, Jvalenzuela@dlcppi.org,
kremain@dlcppi.org, lbrenner@dlcppi.org, lmiddlebrook@dlcppi.org,
LMing@dlcppi.org, lwilkinson@dlcppi.org, mchildress@dlcppi.org,
MFrankel@dlcppi.org, msusman@dlcppi.org, mwaller@dlcppi.org,
myates@dlcppi.org, pintern2@dlcppi.org, PPI1@dlcppi.org, PPI4@dlcppi.org,
PPINTERN@dlcppi.org, prange@dlcppi.org, ratkinson@dlcppi.org,
rcourt@dlcppi.org, sham@dlcppi.org, shothem@dlcppi.org, snider@dlcppi.org,
swathen@dlcppi.org, THarrell@dlcppi.org, tmirga@dlcppi.org,
Tyedinsky@dlcppi.org, wmarshall@dlcppi.org, dknopman@pf.org
MIME-version: 1.0
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Content-disposition: inline
Content-transfer-encoding: QUOTED-PRINTABLE
March 13, 2000

Morton Kondracke - Roll Call

Lieberman as Veep Would Help Gore Move Toward Center

Having locked up the Democratic presidential nomination by appealing to liberal interest groups, Vice President Al Gore needs to move to the center to win the White House.

His most convincing move would be to name a New Democrat as his running mate, and the best of that breed is Sen. Joe Lieberman (Conn.), current chairman of the Democratic Leadership Council.

Lieberman would bolster Gore in all the places where he's currently weak - with independents who supported either Sen. John McCain (R-Ariz.) or former Sen. Bill Bradley (D-N.J.), voters offended by the sex and money scandals of the Clinton-Gore era and political moderates sick of Washington's partisan warfare.

Lieberman takes an independent stand on practically every issue, from health care reform to education to affirmative action. He was the first Democrat to publicly criticize President Clinton's affair with former White House intern Monica Lewinsky as immoral. He's a defense and foreign policy hawk and he habitually works in tandem with Republicans.

Moreover, he'd be America's first Jewish vice president. His devout Orthodoxy would appeal to religious voters of other faiths and the slightest peep of prejudice would backfire on Republicans already suspected of intolerance.

Other Democratic moderates are being mentioned for the number two spot with Gore, including Sens. Evan Bayh (Ind.), Dianne Feinstein (Calif.), Bob Graham (Fla.) and John Kerry (Mass.); as well as Rep. Ellen Tauscher (Calif.) and Maryland Lt. Gov. Kathleen Kennedy Townsend.

But Bayh, like Gore, is the St. Albans-educated son of a Senator, though he went to Indiana University, not Harvard. Lieberman went to Yale, but he was the first person in his family ever to go to college.

Kerry has the advantage of being a war hero like McCain, but unlike Lieberman and Gore, he voted against launching the Persian Gulf War in 1991. Feinstein is a Jewish woman who advocated censuring Clinton and is from California, but she is less identified as a centrist, except on crime.

Graham is not a particularly high-profile Senator and comes from a state that's virtually out of play for the Democrats this year. Tauscher and Townsend are comers, but still too junior and

obscure.

Lieberman has drawbacks. He doesn't campaign on Saturday, the Sabbath, and Connecticut is not a big state. On the other hand, he's one of the most widely respected of all Senators.

Once upon a time, Gore might not have needed Lieberman's help. A centrist Senator from Tennessee in 1985, Gore was a founding member of the DLC - a group formed to pull the Democratic Party to the middle when voters were rejecting its presidential candidates for being socially permissive, soft on crime, anti-business and weak on foreign policy.

Liberals derided the group as "the Southern white boys caucus." Bradley tried unsuccessfully to use Gore's record from this era to question his liberal fidelity on issues such as abortion and affirmative action.

Even though Gore still professes himself to be a New Democrat and has been endorsed by the DLC, he's moved well to the left to win the Democratic nomination, winning the support of the AFL-CIO, the National Education Association, feminist and pro-abortion groups, the gay rights movement and civil rights groups. He's even tried to win the backing of the Rev. Al Sharpton.

When Gore was a Senator, his wife, Tipper, was a leader in the fight to pressure the entertainment industry to stop coarsening U.S. culture with sex and violence. When that offended Hollywood and young trendies, the Gores moved away to other causes.

Lieberman, by contrast, has teamed up with former Education Secretary Bill Bennett, a leading conservative, to dispense "Silver Sewer" awards for cultural pollution and persuade the entertainment industry to clean up its act. Bennett tends to act as the scold; Lieberman, the negotiator.

Hollywood presumably will not be charmed by the idea that Lieberman might be riding herd on its excesses as vice president, but it won't support Republicans. Meantime, Lieberman could attract parents concerned about the cultural roots of the 1999 shootings at Columbine High School.

Gore is vulnerable to attack not only for defending Clinton as one of America's greatest presidents at the time of his impeachment, but also for being his partner in the 1996 fundraising scandals symbolized by his infamous Buddhist temple fundraiser.

Lieberman, on the other hand, not only criticized Clinton but was virtually the only Democrat on the Governmental Affairs Committee who did not try to torpedo Sen. Fred Thompson's (R-Tenn.) efforts to investigate the fundraising scandals.

Even though he's independent and a moralist in such matters, Lieberman manages to inspire admiration among his colleagues for his seriousness and sincerity. Other renegades, such as McCain and former Sen. Lowell Weicker (R-Conn.), whom Lieberman defeated in 1988, become pariahs.

That's partly because he constantly forges bipartisan alliances seeking middle-ground solutions on the federal budget and issues such as HMO reform and health insurance. Gore has become a harsh partisan.

Gore and Lieberman have differences. Lieberman has been willing to explore voucher experiments to offer children an escape from failing schools - a stance for which Gore condemned Bradley. But that's just the point: Gore needs an independent thinker to balance off his orthodoxy.

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-APR-2000 14:17:58.00

SUBJECT: Racial Profiling Update

TO: Deanne E. Benos (CN=Deanne E. Benos/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TO: Eric P. Liu (CN=Eric P. Liu/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

CC: Anna Richter (CN=Anna Richter/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

irene bueno (CN=Irene Bueno/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TEXT:

I spoke to Richard Jerome and he is still waiting to hear back from Civil

Rights Division before they finalize their views on the Conyers' bill.

Richard expects that this should be finalized by this Friday. (Leanne - I

will be out on Friday so I asked him to follow up with you.)

Also, Richard mentioned that on May 5, DOJ is holding another follow-up

meeting on conference on police use of force held last June. This meeting

will focus on police training, racial bias and other issues. Rev.

Sharpton participated in the break-out session on these issues in June and

has been invited to attend this meeting and is expected to attend. While

this meeting is closed to press, there is a press availability after the

meeting around 5pm. Richard also mentioned that Dan Rosenblatt from ICP

indicated he would not attend if Rev. Sharpton was there but the AG plans

to call Mike Robinson to encourage them to participate in this meeting.

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-MAY-2000 09:58:20.00

SUBJECT: March in Washington to urge EO to ban racial profiling

TO: barbara chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Deanne E. Benos (CN=Deanne E. Benos/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Jennifer E. McGee (CN=Jennifer E. McGee/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

irene bueno (CN=Irene Bueno/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
Heads up - According to this article, the Southern Christian Leadership
Conference and Rev. Sharpton is organizing a march in Washington this
August to urge the President to sign an EO to ban racial profiling.

The Atlanta Journal and Constitution

May 23, 2000, Tuesday, Home Edition

SECTION: Local News; Pg. 4F

LENGTH: 616 words

HEADLINE: Race-based searches draw fire;

Profiling: Enforcement practice will be protested in August at a national march in Washington.

BYLINE: S.A. Reid, Staff

SOURCE: CONSTITUTION

BODY:

For a long time it was only whispered, often just among African-Americans. Now it's openly known as racial profiling, informally as "driving while black," or "DWB."

Concern over the singling out of African-Americans --- and to a lesser degree Hispanics, Asians and even some white people --- prompted the Georgia Assembly to take up the issue earlier this year and the Southern Christian Leadership Conference to request a meeting with President Clinton and members of Congress this August.

Racial profiling will be the theme for a national march being organized by the SCLC and the Rev. Al Sharpton. The gathering is set for August to commemorate the 1963 March on Washington. Organizers hope the event will prompt Clinton to sign an executive order that will put a stop to the problem.

"We believe the leadership must start at the top. That's why we're

focusing

on Washington," said SCLC President Martin Luther King III.

"In 1963, the issues were jobs, peace and freedom," King said. "This year --

- the 37th anniversary --- is specifically focusing on the issue of profiling.

We know that African-Americans are disproportionately profiled as well as Latinos."

The SCLC is urging cities to pass anti-racial profiling resolutions.

Locally, the American Civil Liberties Union of Georgia is preparing to launch

an initiative this summer to get police agencies to voluntarily track their

traffic stops and arrests according to race and ethnicity.

In metro Atlanta, the aggressive traffic ticketing in DeKalb County's Pine

Lake community spawned charges of racial profiling last year.

Some have suggested that Jamil Abdullah Al-Amin, now facing murder charges, was the victim of DWB after Cobb County police stopped him last year.

Al-Amin was charged with theft by receiving and driving without proof

of

insurance. He was freed on bond but a warrant for his arrest was issued when he failed to appear in court in January. Now Al-Amin, a Muslim imam formerly known as H. Rap Brown, is accused of killing a Fulton County sheriff's deputy and injuring another when they tried to serve him with the warrant in March.

The ACLU has seen a dramatic increase in racial profiling complaints, a change legal director Gerry Weber attributed to increased public awareness and evidence that redress is possible.

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Growing concern has prompted a flurry of efforts by groups and lawmakers to combat what many have come to consider a national problem and what others consider just good law enforcement.

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"Keep the dialogue open," Meeks said. "It's the dialogue that's gotten us this far."

GRAPHIC: Graphic

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Tips for people who believe they were unjustly stopped by police:

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Respectfully ask for identification of the person conducting the stop or the

search.

Feel free to refuse to be searched if there is no probable cause. You

can't

refuse to be searched by U.S. Customs officials, but you can request that

a

supervisor be present.

Document the incident. File a written complaint if you believe you're a

victim

of profiling.

Source: Author Kenneth Meeks

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Anna Richter (CN=Anna Richter/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-MAY-2000 10:59:12.00

SUBJECT: sharpton

TO: barbara chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

CC: Jennifer E. McGee (CN=Jennifer E. McGee/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TEXT:

fyi

----- Forwarded by Anna Richter/OPD/EOP on 05/24/2000

10:58 AM -----

Jason H. Schechter

05/24/2000 10:48:33 AM

Record Type: Record

To: Anna Richter/OPD/EOP@EOP

cc:

Subject: sharpton

10 a.m. MARCH Rev. Al Sharpton, Martin Luther KIng III, others, hold a
news conference to announce plans to re-create the Aug. 28, 1963 Martin

Luther King, Jr. March on Washington.

Location: National Press Club.

Contact: Rachel Noerdlinger, 212-220-4333, ext. 224

+ making calls on racial profiling - says our data is not good enough

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Anna Richter (CN=Anna Richter/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-MAY-2000 10:55:22.00

SUBJECT: sharpton

TO: Deanne E. Benos (CN=Deanne E. Benos/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: irene bueno (CN=Irene Bueno/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Sarah C. Lucas (CN=Sarah C. Lucas/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
Is the latest guidance okay?

----- Forwarded by Anna Richter/OPD/EOP on 05/24/2000

10:51 AM -----

Jason H. Schechter

05/24/2000 10:48:33 AM

Record Type: Record

To: Anna Richter/OPD/EOP@EOP

cc:

Subject: sharpton

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Contact: Rachel Noerdlinger, 212-220-4333, ext. 224

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ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-MAY-2000 10:56:30.00

SUBJECT: March in Washington to urge EO to ban racial profiling

TO: Anna Richter (CN=Anna Richter/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
----- Forwarded by Irene Bueno/OPD/EOP on 05/24/2000

10:56 AM -----

Irene Bueno

05/23/2000 09:58:20 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Barbara Chow/OMB/EOP@EOP, Leanne A.

Shimabukuro/OPD/EOP@EOP, Deanne E. Benos/OPD/EOP@EOP

cc: Jennifer E. McGee/OMB/EOP@EOP

Subject: March in Washington to urge EO to ban racial profiling

Heads up - According to this article, the Southern Christian Leadership
Conference and Rev. Sharpton is organizing a march in Washington this
August to urge the President to sign an EO to ban racial profiling.

The Atlanta Journal and Constitution

May 23, 2000, Tuesday, Home Edition

SECTION: Local News; Pg. 4F

LENGTH: 616 words

HEADLINE: Race-based searches draw fire;

Profiling: Enforcement practice will be protested in August at a national march in Washington.

BYLINE: S.A. Reid, Staff

SOURCE: CONSTITUTION

BODY:

For a long time it was only whispered, often just among African-Americans. Now it's openly known as racial profiling, informally as "driving while black," or "DWB."

Concern over the singling out of African-Americans --- and to a lesser degree Hispanics, Asians and even some white people --- prompted the Georgia Assembly to take up the issue earlier this year and the Southern Christian Leadership Conference to request a meeting with President Clinton and members of Congress this August.

Racial profiling will be the theme for a national march being organized by the SCLC and the Rev. Al Sharpton. The gathering is set for August to commemorate the 1963 March on Washington. Organizers hope the event will prompt Clinton to sign an executive order that will put a stop to the problem.

"We believe the leadership must start at the top. That's why we're focusing on Washington," said SCLC President Martin Luther King III.

"In 1963, the issues were jobs, peace and freedom," King said. "This year --

- the 37th anniversary --- is specifically focusing on the issue of profiling.

We know that African-Americans are disproportionately profiled as well as Latinos."

The SCLC is urging cities to pass anti-racial profiling resolutions.

Locally, the American Civil Liberties Union of Georgia is preparing to launch an initiative this summer to get police agencies to voluntarily track their traffic stops and arrests according to race and ethnicity.

In metro Atlanta, the aggressive traffic ticketing in DeKalb County's

Pine

Lake community spawned charges of racial profiling last year.

Some have suggested that Jamil Abdullah Al-Amin, now facing murder charges, was the victim of DWB after Cobb County police stopped him last year.

Al-Amin was charged with theft by receiving and driving without proof of insurance. He was freed on bond but a warrant for his arrest was issued when he failed to appear in court in January. Now Al-Amin, a Muslim imam formerly known as H. Rap Brown, is accused of killing a Fulton County sheriff's deputy and injuring another when they tried to serve him with the warrant in March.

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Feel free to refuse to be searched if there is no probable cause. You can't

refuse to be searched by U.S. Customs officials, but you can request that a supervisor be present.

Document the incident. File a written complaint if you believe you're a victim of profiling.

Source: Author Kenneth Meeks

ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Anna Richter (CN=Anna Richter/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:24-MAY-2000 10:58:41.00

SUBJECT: Re: sharpton

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

TEXT:
use the latest guidance and we will update later --

Jason H. Schechter

05/24/2000 10:48:33 AM

Record Type: Record

To: Anna Richter/OPD/EOP@EOP

cc:

Subject: sharpton

10 a.m. MARCH Rev. Al Sharpton, Martin Luther KIng III, others, hold a
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Location: National Press Club.

Contact: Rachel Noerdlinger, 212-220-4333, ext. 224

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ARMS Email System
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:23-AUG-2000 15:06:20.00

SUBJECT: Re: meeting with AG and civil rights leaders on racism in criminal justice system

TO: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:
it's up to you, but if he can't be there, you should come as staff and
Chow should come in his stead,

Leanne A. Shimabukuro
08/23/2000 02:40:59 PM
Record Type: Record

To: Maria Echaveste/WHO/EOP@EOP
cc: See the distribution list at the bottom of this message
bcc:
Subject: Re: meeting with AG and civil rights leaders on racism
in criminal justice system

Maria -- Bruce is out of town for the remainder of the week. Let me know
if you want to see if he can participate by conference call.

Leanne

Maria Echaveste
08/23/2000 02:12:15 PM
Record Type: Record

To: Robert B. Johnson/WHO/EOP@EOP, Beth Nolan/WHO/EOP@EOP, Bruce N.
Reed/OPD/EOP@EOP
cc: Leanne A. Shimabukuro/OPD/EOP@EOP, Irene Bueno/WHO/EOP@EOP,
Minyon Moore/WHO/EOP@EOP, Rochelle G. Thompson/WHO/EOP@EOP
Subject: meeting with AG and civil rights leaders on racism in
criminal justice system

Attorney general has agreed to meet with folks who requested mtg with
president on racial discrimination in criminal justice system on Friday at

10 am here at White House, Roosevelt Room (Rochelle please reserve room).
Ben--please send to Ann Harkins copy of letter requesting mtg and tentative list of participants from their side to 616-5117. From our side I think Beth, Ben, Bruce and me should participate. I'd like to do a premtg conf call tomorrow with her staff to prepare for mtg--Ben would you work with Rochelle on time and participants---Thanks--also please confirm with Sharpton that this will work---

Message Copied

To:

robert b. johnson/who/eop@eop

beth nolan/who/eop@eop

bruce n. reed/opd/eop@eop

irene bueno/who/eop@eop

minyon moore/who/eop@eop

rochelle g. thompson/who/eop@eop

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Gallagher, John M" <John.M.Gallagher@usdoj.gov> ("Gallagher, John M" <John.M.Gallagher@usdoj.gov> [UNKNOWN])

CREATION DATE/TIME:28-SEP-2000 09:44:34.00

SUBJECT: RE: Draft of NY City Trip 2nd attempt

TO: David F. Lussier (CN=David F. Lussier/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

TEXT:

David, took real quick look, meeting with Rangel/Sharpton better during Harlem events. John G

-----Original Message-----

From: David_F._Lussier@opd.eop.gov@inetgw2
[mailto:David_F._Lussier@opd.eop.gov]
Sent: Thursday, September 28, 2000 9:10 AM
To: Gallagher, John M; Michael_R._Fenzel@nsc.eop.gov@inetgw2;
Scott.Berns@ost.dot.gov@inetgw2
Subject: Draft of NY City Trip 2nd attempt

Hi Gents,

I forgot to enclose the attachment! Again, this is only a draft so please forward your feedback. -David

(See attached file: Tentative New York City Trip Schedule.doc)

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Patrick Piercey (CN=Patrick Piercey/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-OCT-2000 18:40:23.00

SUBJECT: Re: Priorities for NYC Trip -- CLARIFICATION

TO: Michael R. Fenzel (CN=Michael R. Fenzel/OU=NSC/O=EOP@EOP [NSC])

READ:UNKNOWN

CC: John.M.Gallagher@usdoj.gov (John.M.Gallagher@usdoj.gov [UNKNOWN])

READ:UNKNOWN

CC: Dlussier@opd.eop.gov (Dlussier@opd.eop.gov [OPD])

READ:UNKNOWN

CC: Scott.Berns@ost.dot.gov (Scott.Berns@ost.dot.gov [UNKNOWN])

READ:UNKNOWN

TEXT:

My votes are below:

Meetings (Please Rank Order Your Preference):

5 Henry Kissinger

4 Les Gelb, Council on Foreign Relations & Roundtable on Foreign Policy

1 Senator Moynihan

2 Mayor Rudolph Giuliani

8 Gloria Steinham

6 Guggenheim Tour and Lunch, Mr. Tom Krens, Director

9 Arts Roundtable (Broadway Cares, a philanthropic
organization headed up by actors and benefitting people with

AIDS)

7 Lunch with George Soros (Philanthropic Roundtable)

14 Attend taping of Letterman Show (at 4pm)

11 Katie Couric

15 Ted Sorensen

16 Daily Show with Jon Stewart

3 Al Sharpton (possibly at Sylvia's)

10 Charlie Rangel (alternative option for Sylvia's)

12 Derrick Bell

13 Oxygen

Dinner Options:

1 Dinner at Indigo, 142 W. 10th St. (212) 691-7757

2 Dinner at Sardi's

J

ARMS Email System

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Clark Richard <clark-richard@dol.gov> (Clark Richard <clark-richard@dol.gov> [UNKNOWN])

CREATION DATE/TIME:27-OCT-2000 10:39:36.00

SUBJECT: RE:

TO: Michael R. Fenzel (CN=Michael R. Fenzel/OU=NSC/O=EOP [NSC])

READ:UNKNOWN

CC: David F. Lussier (CN=David F. Lussier/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

Mike, these are my choices. Sorry they're late.

Rich

- 1) Al Sharpton
- 2) CM Rangel
- 3) Mayor Guiliani
- 4) Sen Moynihan
- 5) Letterman
- 6) Katie Couric
- 7) Henry Kissinger
- 8) Guggenheim
- 9) Jon Stewart
- 10) Gloria Steinham
- 11) Oxygen
- 12) Jon Stewart
- 13) Les Gelb
- 14) George Soros
- 15) Derrick Bell
- 16) Arts Roundtable

> -----

> From:

> Michael_R._Fenzel@nsc.eop.gov[SMTP:Michael_R._Fenzel@nsc.eop.gov]

> Sent: Friday, October 27, 2000 8:03 AM

> To: Clark Richard

>

> Rich,

>

> Could you place your vote for NYC priorities -- Let me know if you need

it

> re-sent. Thanks.

>

> Mike

>

>
- att1.htm===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
<!DOCTYPE HTML PUBLIC "-//W3C//DTD HTML 3.2//EN">
<HTML>
<HEAD>
<META HTTP-EQUIV="Content-Type" CONTENT="text/html; charset=us-ascii">
<META NAME="Generator" CONTENT="MS Exchange Server version 5.5.2650.12">
<TITLE>RE: </TITLE>
</HEAD>
<BODY>

<P>Mike, these are my choices.
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</P>

<P>Rich
</P>

<P>1) Al Sharpton

2) CM Rangel

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13) Les Gelb

14) George Soros

15) Derrick Bell

16) Arts Roundtable
</P>

<P>-----

From: <FONT SIZE=1 F
ACE="MS Sans Serif">Michael_R._Fenzel@nsc.eop.gov[SMTP:Michael_R._Fenzel@nsc.eo
p.gov]

Sent: <FONT SIZE=1 F
ACE="MS Sans Serif">Friday, October 27, 2000 8:03 AM

To: <FON
T SIZE=1 FACE="MS Sans Serif">Clark Richard
</P>

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</P>

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</P>

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</P>

</BODY>

</HTML>

===== END ATTACHMENT 1 =====