

**United States National Commission
on Libraries and Information Science
1110 Vermont Avenue, NW
Suite 820
Washington, DC 20005
Phone: 202-606-9200 - Fax: 202-606-9203**

00 FEB 22 AM 9:55

February 20, 2000

The Honorable William J. Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

It is my sad duty to inform you that Jeanne Hurley Simon, Chairperson of the National Commission on Libraries and Information Science, passed away this morning at her home in Makanda, Illinois.

The visitation is scheduled for Tuesday, February 22, at Saint Francis Catholic Church at 303 South Poplar Street in Carbondale. The funeral service will take place at the same church on Wednesday morning at 10 am. Arrangements are being handled by Meredith Funeral Homes, 300 South University Avenue in Carbondale (618-457-4139).

Commissioner Martha Gould of Reno, NV, our acting chairperson, Commissioner Joan Challinor of Washington, DC, and I have been asked by Paul Simon to be honorary pallbearers. We will be traveling to Carbondale on Tuesday.

Jeanne was immensely pleased to serve as chair of the Commission, and her devotion to improving the lives of people through library and information services was limitless. She was always grateful to you for her appointment to the Commission. I, also, am thankful to you: for in appointing me, you gave me the opportunity to work closely with Jeanne over the last six years - an experience I will always treasure.

If you need any additional information, I can be reached at my home telephone (301-779-2558) or my cell phone (202-255-8306).

Respectfully,



Robert S. Willard
Executive Director

Send to Burkhardt for reply?

Yes ☒No ☐

POTUS already called
-jc

In honor of Ms. Helen Thomas, author of the recently published book
"Front Row at the White House"
and to celebrate the birthday of all the Pisces



'00 FEB 22 PM 4:29

The Ambassador of Ecuador Ivonne A-Baki
requests the pleasure of the company of
The President and Mrs. Clinton
at a buffet dinner
on Friday, February 25th
at 7:30 p.m.

R.L.V.P.
(202) 234-7200 2-22-00

A Place, N.W.

To NSC ? Yes - No -
Scheduling ? Yes ☒ No -

B.

Ambassador Swanee Hunt

168 Brattle Street
Cambridge, MA 02138
Tele: (617) 547-8921
Fax: (617) 547-8178

*through sec
for BB
Potter sign
ASAP*

TELEFAX

'00 FEB 22 PM 4:23

TO: Betty Currie FAX #: (202) 456-1210

FROM: Swanee Hunt

DATE: February 22, 2000 # OF PAGES (incl. this page): 14

RE: letter to the President

IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION,
PLEASE CALL (617) 547-8921.
THANK YOU!

message:

2-22-00
Send to Burkhardt for reply?

Yes ☒

No ☐

coordinate w/ NSC

2/22
REC 205
BC SIG
D

*Ambassador Swanee Hunt*168 Brattle Street
Cambridge, Massachusetts 02138

February 21, 2000

President William Clinton
1600 Pennsylvania Avenue
The White House
Washington, DC 20500

Dear Mr. President,

I'm sorry I missed you at dinner in Boston. Charles and Teddy reported that you were fit as a fiddle, and splendidly articulate, as usual.

With the G-8 planning underway, I can imagine you're very concerned about how to put a human face on the economic agenda. I have an idea:

This past week I was at the White House and State Department for grand celebrations of the initiative we began in Vienna, called Vital Voices. I know you've heard Hillary speak of it. The success of that experience of helping women connect, overlaid with multiple Balkan political initiatives in which I was involved, has convinced me that there is a way to gather the power of women to support your work for peace.

On Air Force One, in December, 1997, you and I had a conversation while flying back from Bosnia. You said then that we needed to find a way to make our foreign policy draw more from the wisdom of grassroots leaders. I have been puzzling through this issue now for seven years, appalled at the chasm between our foreign policy-makers and the people affected by the policies, who are not only victims, but also have an on-the-ground understanding of the nuances in these complicated situations. As you approach your final G-8 meeting, I believe you have an unexcelled opportunity to address this issue:

I wrote you last spring about a new initiative I was planning through my private foundation and Harvard: Women Waging Peace. (I'm enclosing our correspondence.) The bad news is that the impetus for this new project was my experience working in hellish situations. The good news is that the project has taken off like wild fire:

- Our official launch was in December. We now have over 100 women from ten conflict areas in a closely-knit network, exchanging prototypical strategies and support on a specialized Web site. (We included divided US inner cities, by the way.) We're expanding the network even as I write.
- Two hundred "policy shapers" joined our delegates in December to exchange ideas in Boston. Since then, we've formed partnerships with the NSC, State Department, UN, US Institute of Peace and others to co-host policy-shaping events.
- Enron is chairing a board of multi-national corporations. Several foundations are supporting us.

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Email: swanee_hunt@harvard.edu

- The President of Harvard is highlighting this initiative as a new star in the university crown.
- Our expansion potential is enormous. Our Website (with three tiers of security) is under construction by five technicians assigned by EMC, a 120 billion dollar Massachusetts Company. A hundred hours of video interviews with the women peace-makers are being digitized so they can be accessed with the click of a mouse.
- Media interest is considerable, because of the innovative nature of the approach. CNN ran a half-hour documentary in December. *Parade Magazine*, the *Boston Globe*, and *Washington Post* have run pieces. Many more are in the works.

The stories of the delegates we have assembled are breathtaking. One (in Kosovo) arrived at work to find a landmine under her desk in her human rights office; she kept right on working. Another (assisting Sudanese refugees) went out to deliver a baby, and thus escaped a bomb that destroyed her house; another (from Colombia) rode eight hours on horseback alone in the jungle to find and interview the paramilitary leader, then published his confession that he is sick of the life of revenge that began with his own father's murder. In each case, the women have followed through to action, bringing in thousands of others to work toward peace.

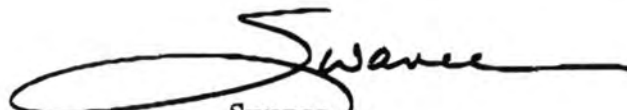
The stories go on and on. As important, though, is the enriched enthusiasm of the women, now that we've connected them on the Web. With Internet training and new laptop computers, these remarkable women are now on-line, exchanging their strategies, finding ways to meet across war lines, insisting on a place at the negotiating tables.

An assistant secretary of State has urged that Women Waging Peace could add the much-needed dimension to the Colombian Plan, which is being perceived as only military and narcotics focused. Another assistant secretary of State told me this would fit in very well with the European-oriented items he was working on. It strikes me that this initiative would add a powerful facet to your July agenda. A propos to the Okinawa meeting coming up, our project's steering committee includes one of the very few women in the Japanese diet, who is anxious to see a role for the Japanese government in advancing this work.

I met this week with your G-8 organizer Rob Wescott (whom I liked very much, by the way), who seemed quite interested, especially when I told him about the Bosnian Women's Initiative, which you announced at the G-7 in Lyons in 1996. (By the way, that initiative has now been replicated by UNHCR in Rwanda, Burundi, Kosovo, and East Timor.)

I am happy to devote staff to developing various G-8 angles, if you express broad-stroke interest in having this as part of your agenda. I believe the potential is tremendous and is consistent with your commitment to women, to community-based movements, and to world peace, so I'm hopeful we can work together once again, in this way. It would be an honor, as a close friend of this Administration, to share this initiative with you.

Looking forward to hearing from you,



Swanee



Women Waging Peace

*A global initiative of the Women and Public Policy Program
of Harvard's Kennedy School of Government and Hunt Alternatives*

Initiative Chair
Swanee Hunt

Initiative Vice Chair
Valerie Gillen

Initiative Executive Director
Victoria Budson

Director of Operations
Sarah Gauger

Project Manager
Margaret Murray

Policy Coordinator
Miki Jacevic

Advisory Council

Susanna Agnelli
Oscar Arias
John Brademas
Jimmy Carter
Kevin Clements
Marian Wright Edelman
Roger Fisher
John Kenneth Galbraith
John Galvin
Jose Ramos Horta
H. M. Queen Noor of Jordan
Edward M. Kennedy
Shimon Peres
Kenneth Roth
William Schulz
Leticia Ramos Shahani
Ellen Johnson Sirleaf
Sheila Sisulu
Joseph Sutton
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Jody Williams

Women Waging Peace
168 Brattle Street
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(617) 868-3910

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February 2000 Update

Overview

Over 100 women deeply involved in peace efforts in the most violent areas of the world convened to form a global network entitled Women Waging Peace. These women work to prevent conflict, stop war, reconstruct ravaged societies, and sustain peace in fragile areas. Delegations attended from Armenia/Azerbaijan, Boston urban neighborhoods, Colombia, Cyprus, India/Pakistan, the Israeli/Palestinian conflict, Northern Ireland, the post-Yugoslav region, South Africa, and Sudan.

The December 1999 launch of the Women Waging Peace Initiative, at Harvard's Kennedy School of Government, spurred groundbreaking work bridging divides between communities in conflict, as well as those among policy shapers, academics, and grassroots activists. Valuable results in coalition building, information technology training, and public policy shaping were the practical outcomes of the two-week launch where women peace builders shared expertise, stories, and strategies to help them in their difficult and momentous work. In addition to the ties formed among the 100 delegates, the women also found new connections with some 200 policy shapers -- UN and World Bank officials... State Department officers... funders... and journalists... -- on December 16th in Boston, during an all day public policy roundtable event. The exchange of concrete policy ideas inspired extensive media coverage from the *Washington Post*, *Boston Globe*, *Washington Times*, Associated Press, and generated a 25-minute piece by CNN's program "Insight," which aired internationally.

Exchanging Strategies

The delegates met in groups of 20 -- with two delegates from each area representing different sides of the conflict -- to tackle the vast issues of what is peace; what obstacles women face as peace builders; and how to craft strong and lasting coalitions across divides. Deep and lasting relationships were made as they shared their stories of success and failure, conflict and peace.



Spontaneous sessions arose as delegates' interest about each conflict became evident, each delegation hosting others for a presentation. Students from the Kennedy School interviewed each delegate on video. This collection remains a resource emerging from the launch, serving as a bank of first-hand accounts of peace-building strategies and lessons, with 90 hours of instructional and inspirational testimonies accessible through our new multimedia Web site (www.womenwagingpeace.net). With the videos on the Internet, other women peace builders, policymakers, members of the media, academics, conflict resolution professionals, students at the Kennedy School, and major funders are able to hear their stories — in the words of those doing the work and affected by public and international policy.

Thus, women who would not have had the opportunity to meet and know each other because of the political gulfs in their conflicted societies worked together, developing strategies and projects for peace. An African delegate remarked that she was trembling inside as she watched women from North and South Sudan, who had not met before the launch, holding a joint panel. She was participating in history.

Sharpening Skills and Ideas

Delegates also interacted with local and international experts in conflict resolution, research, media, public speaking, human rights, and political and social theory to discuss the issues surrounding conflict and peacebuilding. These seminars produced lively dialogue among delegates and facilitators. Often contentious issues were hammered out and participants united across cultural and political divides to address particular topics. Roger Fisher, Director of the Harvard Negotiation Project; John Galvin, former Supreme Allied Commander of NATO; and Jane Holl, Executive Director, Carnegie Commission on Preventing Deadly Conflict, joined other notable speakers discussing issues relevant to peace builders at the forefront of the field.

International and local academic experts teamed up with delegates to discuss and shape research in ethnic conflict and its resolution, in women and public policy, in grassroots activism, and the links between theory, research, and practice. Delegates, many of academic note, discussed ways to address the divide between the work on the ground and the research reported. That working group has committed itself to a 2000 calendar, culminating in a conference in the fall.

Shaping Public Policy

As the climax to the two-weeks we hosted an historical gathering that bridged the chasm between activists and policy makers. In addition to plenary remarks by Senator Ted Kennedy (D-MA) and Dean Joseph Nye of the Kennedy School of Government, 300 participants of "Policy Day" divided into 30 intimate discussions with people of influence in the policy arena. This event was described as unprecedented in public policy circles and inspired remarkable results. One roundtable was led by a senior White House

official, who, after speaking with two African delegates, was motivated to review current legislation addressing the distribution of humanitarian aid in their country. "We're on to something here. We don't usually talk to the people affected by our policies."

It is just those connections the Women Waging Peace Initiative was designed to broker. In the weeks since the launch, numerous ripple effects have been felt. For example, we were approached by the National Security Council requesting assistance to connect with women working towards peace in Burundi. In addition, the United States Institute of Peace is hosting a follow-up discussion March 17th, in Washington, D.C., to bring policy shapers, funders, academics, activists and journalists together. Most recently, the Initiative has been invited to co-sponsor International Women's Day, March 8th, at the United Nations. The title: "Women Waging Peace."

Origins of this Initiative

"Women Waging Peace" as an ongoing initiative was born in response to the requests of peace builders on the front lines. Two Hunt Alternatives symposia, one co-sponsored by the Carnegie Commission on Preventing Deadly Conflict in August, 1998 in Sarajevo, and another at the Kennedy School a few months later, brought together women leaders from conflicts in Afghanistan, Northern Ireland, South Africa, Cyprus, Cameroon, and the Balkans. As the women exchanged experiences, it became clear that sharing their approaches and ideas was not just of practical value, but met an important nurturing need as well.

In those discussions, a well-known and respected bi-communal peace builder in Cyprus commented that, despite the many cultural and situational differences, it was impressive and instructive to hear about the achievements of the Women's Coalition of Northern Ireland, a party that made a significant contribution to recent peace negotiations. The other activists joined in, asking for a way to link women in peacebuilding, a mechanism to share information and experience, as well as provide moral support. The idea to create a global network of women working in conflict areas was conceived that summer night in Sarajevo, and nourished around a kitchen table in Cambridge.

Following these groundbreaking meetings, the Women and Public Policy Program held consultations in New York, San Francisco, Washington, Belfast, The Hague, Zanzibar, Nairobi, and Boston with hundreds of international experts. From these discussions, with ongoing input from potential participants, the Women Waging Peace Initiative took shape.

Each delegation was coordinated through a local partner, an organization in their region chosen for its thorough understanding of the conflict, the respect it has within the community, and its ability to offer technical assistance before the launch and after. As part of their ongoing work in the community, the local partners of each delegation track political trends and community issues affecting women in conflict transformation within each country/region; build positive ongoing relationships in the community and develop

coalitions with other organizations in the conflict area; and provide technical assistance for network members to sustain contact. Initiative organizers continue to work closely with the local partners to develop and implement follow-up plans and activities for the launch, as well as long-term network building.

Prior to the launch, local partner representatives gathered for a one-week planning session in Cambridge, Massachusetts, and Washington, D.C., in October, and then traveled with the delegations in December to Harvard University, providing continuity, throughout the launch of the network and follow-up. The Washington policy shapers' roll-out included a reception hosted by U.S. Senators Edward M. Kennedy (D-MA) and Kay Bailey Hutchison (R-TX), with Barbara Mikulski (D-MD), Patty Murray (D-WA) and Blanche Lambert Lincoln (D-AR). A roundtable co-sponsored by Women in International Security and Congresswoman Lynn Woolsey (D-CA) provided a packed forum at which the women's work was explored. Seasoned diplomats hosting a State Department luncheon were visibly moved by the women's accounts. At a White House presentation before 150 policy-shapers, First Lady Hillary Rodham Clinton lauded the effort, saying "this initiative puts women on the front lines on behalf of peace."

Looking Forward

Where does Women Waging Peace go from here? The Initiative is now entering an exciting stage of deepening and gradual expansion, adding more conflict areas, organizing a second colloquium for November 2000. A corporate board is being formed by a dozen multi-national corporations, and an "Alliance" of donors is being organized to sponsor individual delegates. At the heart of the expansion is the activation of a three-tiered Web site, with increased security for access to each level. All 100 of the founding delegates left Cambridge trained on the donated laptop computers they took home. They are now in touch with each other via the Web and are launching joint efforts.

Some delegate activities spawned since the launch include:

- A dozen delegates, who are also journalists, have created a newsletter reporting the work of women in conflicts worldwide;
- One delegate has developed a project to investigate rape in South Africa, using Cape Town and Kennedy School students, and convening researchers from the post-Yugoslav region, Guatemala, Nigeria, Rwanda, and Sudan;
- The delegation from Northern Ireland invited the Cypriot delegates to coordinate on future training projects and to convene in Northern Ireland;
- The Cypriot delegation met for the first time on Cypriot soil, on the UN-patrolled "Green Line," to discuss follow-up projects such as teaching the language of the other community to each side of the conflict, and organizing a bi-communal concert. The credibility afforded the Women Waging Peace Initiative was critical in the granting of visas for the delegates to meet, an exception rarely made;

- *Security and International Studies*, an academic journal published by Johns Hopkins University, has solicited papers from the delegates for an upcoming volume addressing women in conflict zones; and
- A handbook of "successful strategies" is in the works, with examples from among the delegates, to inspire and inform not only other activists, but also funders, policy makers, media representatives, and scholars.

The future of Women Waging Peace is wide open, as experts and novices alike learn of this extraordinary opportunity to draw power from a worldwide synergy.

We can be contacted at: information@womenwagingpeace.net.

Advisory Council Susanna Agnelli; Italian Foreign Minister, 1986-91 • Oscar Arias; Nobel Peace Laureate, Former President of Costa Rica • John Brademas; Chair, National Endowment for Democracy • Jimmy Carter; Former President of the United States • Kevin Clements; *Secretary General, International Alert* • Marian Wright Edelman; *President, Children's Defense Fund* • Roger Fisher; Professor of Law, Emeritus, Harvard Law School • John Kenneth Galbraith; Professor of Economics, Emeritus, Harvard University, Former U.S. Ambassador to India • John Galvin; Dean, Fletcher School of Law and Diplomacy, Former Supreme Allied Commander of NATO • Jose Ramos Horta; Nobel Peace Laureate • Edward M. Kennedy; United States Senator • Her Majesty Queen Noor of Jordan • Shimon Peres; Nobel Peace Laureate • Kenneth Roth; Executive Director, Human Rights Watch • William Schulz; Executive Director, Amnesty International • Leticia Ramos Shahani; Secretary General, United Nations Third World Conference on Women • Ellen Johnson Sirleaf; Chair and CEO, Kormah Development and Investment Corporation, Former presidential candidate of Liberia • Sheila Sisulu; South African Ambassador to the U.S. • Simon Wiesenthal; International Union of Resistance and Deportee Movements, U.S. Congressional Medal of Honor Recipient • Jody Williams; Nobel Peace Laureate

Corporate Board Chair: Joseph Sutton; Vice-Chairman, Enron Corporation • Michael C. Ruetters; President and Chief Executive Officer, EMC²

Local Partner Organizations Codman Square Health Center, Boston urban neighborhoods • Confederacion Colombiana de NGOs, Colombia • Cyprus Fulbright Commission, Cyprus • El Taller, Sudan • Helsinki Citizens Assembly, Azerbaijan/Armenia • South Asia Forum for Human Rights, India/Pakistan • Star Network of World Learning, Post-Yugoslav region • Jerusalem Link, Israeli/Palestinian conflict • Ulster People's College, Northern Ireland • Women's Development Foundation, South Africa

Current Sponsors Austrian Airlines • Carnegie Commission on Preventing Deadly Conflict • Carnegie Corporation • EMC² • Enron Corporation • Ford Foundation • Hunt Alternatives • Infranet Solutions • MediaOne • Roy Family Trust • United States Institute of Peace

Ambassador Swanee Hunt

168 Brattle Street
Cambridge, MA 02138

June 15, 1999

President William J. Clinton
The White House
1600 Pennsylvania Avenue
Washington, DC 20050

Dear Mr. President,

Thank you for your recent note.

Last night I watched on CSPAN your address at Whiteman Air Force Base in Missouri. Your words there captured the essence of your contribution to this country: an ability to grasp the core of political developments and translate them into metaphors that relate to us all, each day of our lives. Charles and I felt as if we had been to church—I mean a real Southern Baptist revival service.

I too have written about the juxtaposition of Milosevic's ethnic purity campaign and the diversity in the faces and names of the US forces at Eagle Base in Northeast Bosnia. It is a link we need to repeat over and over, not just in our own country, but across the globe.

Congratulations for hanging tough these last months. Throughout the Kosovo war I was interviewed by media, who asked how I, attending such-and-such peace conference, could be supporting a failed bombing campaign. I had many things to say: How military action is sometimes the least violent act you can perform; how Viktor Frankl reminded me in Vienna that sometimes the right action is only 55% right.... I also said, "Now, at Day 40, you criticize President Clinton for not changing course. If at Day 80 the campaign is successful, he will be hailed as a magnificent leader precisely for not wavering in the face of your criticism now."

Another time you grasped the core of a problem that has fed global violence: the imbalance of power within Balkan society. Today the Bosnia Women's Initiative you unveiled at Lyon in 1996 is going strong. Over 300 NGO's have been funded; tens of thousands of women have established their businesses. The model has been replicated by the UNHCR in Rwanda and Burundi, with plans now to take it to other parts of the globe.

At Harvard this December I am hosting 100 women from 10 conflict areas for two weeks, to launch a global network of Women Waging Peace. It is a multi-million dollar, multi-year initiative. Hillary will hopefully be there to welcome the women (from Sudan, Columbia, Azerbaijan/Armenia, South Africa, India/Pakistan, Cyprus, former Yugoslavia, Israel/Pakistan, Northern Ireland, and inner city Boston) as we create a new genre within foreign policy.

On the final day, we are asking policy shapers from the State Department, UN, EU, Congress, the funding community and media to gather, to learn from the women what they are doing, and to create institutionalized ways to respond. I imagine we have your conceptual support. As you and I collaborated vis a vis the women of Bosnia, your encouraging the State Department to look into this effort would likely leverage a huge impact. Three times women from Kosovo came to see me—in 1994, 1997, and 1998—begging for help organizing. I could write reports back to Washington, but there was no mechanism to respond with funding, technical assistance, media training, or encouragement. This must never happen again.

Finally, Mr. President, I'm enclosing a piece I wrote for the *Chicago Tribune* and *International Herald Tribune*. It ran the week before Louise Arbour's indictment. We must not make the same mistake we made in Bosnia, not apprehending the indicted war criminals. Congress has approved a bounty. Let's get many others to contribute, let The Hague publicize it, and let the Serbs turn in their own countrymen—alive. We don't need an external commando force. Without this fulfillment, the hate will continue to circulate. I have interviewed hundreds of refugees who say, over and over again, that to see that symbolic justice done would allow them to finally get on with the rest of their lives.

I am proud to have been part of your administration. Please call on me any time I can be of help. I am now a permanent figure at Harvard but am recreating my own private foundation with a global outreach. Your selection of me in 1992 to serve as your ambassador to Vienna launched me into this wider orbit. I will never forget how much I owe you, and I am honored to join forces with you when we share common purposes.



Swanee

THE WHITE HOUSE
WASHINGTON

July 14, 1999

The Honorable Swanee Hunt
168 Brattle Street
Cambridge, Massachusetts 02138

Dear Swanee:

Thank you for your good letter. I appreciate your words of support on my recent speech at Whiteman Air Force Base and on the situation in Kosovo. I'm grateful you could speak out on my behalf.

Your Women Waging Peace project sounds truly wonderful, and of course you have my support. I will mention the effort to Secretary Albright.

I would have loved to read the piece you wrote -- unfortunately, it was not included with your letter. Try to send it again if you can.

Keep up the great work.

Sincerely,

Bob

Ambassador Swanee Hunt
168 Brattle Street
Cambridge, MA 02138

July 25, 99

Dear Mr. President,
Thanks for your note.
Here's the Chicago Tribune piece
also ran in the International Herald
Tribune.
Women Waging Peace is coming
along beautifully. We'll host a large
gathering in D.C. (probably at State) to
prime the pump before our major
global launch in December.
Thanks for your encourage-
ment!
Hope to see
you soon.
Swanee

Chicago Tribune

Chicago
Sports Final
5-11-2000

Archives: May 11, 1999

Commentary

Today well-intentioned peace-lovers urge negotiations, as if unaware that any scenario in which Slobodan Milosevic remains in power means continued instability—and heartbreak—in the Balkans.



Illustration by Norman Curry

Giving Milosevic a pass on war crimes led to current crisis in Kosovo

By Swanee Hunt

Slobodan Milosevic is once again showing himself to be one of the most talented manipulators of the press on the modern world stage. As civilized NATO constituents cringe at the well-publicized loss of life and property caused by the bombing, proposals are made to carve up Kosovo, granting Milosevic the ethnically pure land he set out to win. But NATO must chart its course in Kosovo guided by the experience of Bosnia-Herzegovina. There we learned the futility of negotiating with Milosevic, and the high cost of not finishing the job we promised to do.

Following the Dayton agreement in late 1995, NATO troops stationed in Bosnia could have immediately apprehended those indicted by the UN's International War Crimes Tribunal at The Hague. Instead, the U.S. intelligence community failed to produce information needed to support that action. After all, there was no pressing need, because I repeatedly heard U.S. military commanders on the ground cite "force protection" (the safety of the international peacekeeping troops) as their highest priority. Even after isolating the warriors' heavy weapons, we were so afraid of possible retaliation from angry citizens that we allowed impunity for Bosnian Serbs whose horrific atrocities would have led directly up the chain of command to Belgrade. Our troops were praised as "fair" by the Bosnian Serbs, a compliment repeated to me with pride by the U.S. military commander.

Thus, in effect, tens of thousands of fully armed international peacekeeping troops stationed in Bosnia functioned as hostages rather than protectors. They needed to be protected from neighbors who might be angry if indicted war criminals in their midst were rounded up.

In their defense, U.S. commanders in post-Dayton Bosnia cited a policy of "evenhandedness." Unfortunately, that comforting phrase did not mean they would pick up all indicted war criminals. To the contrary, an American general explained to me that the large number of ethnic Serbs on the indictment list was evidence that the UN tribunal was biased. He refused to admit that the reason for the preponderance of Serbs, as opposed to Croats or Muslims, might be Milosevic's tactics of systematic mass murder, rape, torture and barbarism against civilians. The court justices and prosecutors made numerous trips to Washington, imploring action from policymakers. I personally lobbied half a dozen people in the highest positions of authority. Always I was assured that there was a secret plan to which I simply wasn't privy.

"The plan" never materialized. By refusing to apprehend the indicted war criminals whose locations were well-known to the locals, our military commanders mocked the UN tribunal. Covering their ongoing frustration with the Pentagon over this matter, State Department officials were left to meaninglessly insist that it was the responsibility of Milosevic to turn in those indicted criminals who

had done his bidding. Their arrest would have led straight to Milosevic's doorstep; did we really think he would comply?

The result of our capitulation to Milosevic is that some five years after their expulsion, hundreds of thousands of non-Serb refugees have been unable to return to Bosnia's ethnically purged "Republica Srpska"; correspondingly, ethnic Serbs are unable to return to their homes in the rest of Bosnia, or in Croatia. This stalemate prompted a Bosnian Croat government leader to whisper to me recently that, "Republica Srpska will obviously in time be ceded to 'Greater Serbia,' a development he looked forward to, of course, because then western Bosnia could be conveyed to 'Greater Croatia.' If Bosnia is partitioned, it will not be in two parts, but in three, leaving a rump Muslim state—and another war in the offing.

Thus international waffling, whether motivated by timidity regarding apprehending indicted war criminals or preservation of Milosevic as the endgame negotiator, undermined the Dayton agreement, which called for the return of refugees to their homes in a multicultural state. Worse still, Milosevic was left to carry his nationalistic campaign into other regions, using the same methods—and many of the same men—as wrought terror in Bosnia.

And now?

Thousands of NATO soldiers have been mobilized to aid the torrent of Kosovar refugees fleeing atrocities, and NATO ground troops are preparing for a Balkan mission, which a former NATO commander estimates will require 40,000 to 150,000 soldiers. A million refugees later, we may launch an invasion, in part because three years ago—in the name of "force protection"—we refused to pick up the Bosnian Serb rogues who would have implicated Milosevic.

Today well-intentioned peace-lovers urge negotiations, as if unaware that any scenario in which Milosevic remains in power means continued instability—and heartbreak—in the Balkans. Where will it end? There are more ethnically "impure" parts of Serbia. Their inhabitants have already started pouring into Bosnia in fear that they're next.

Let's not make the same mistake twice. To negotiate with Milosevic is to elevate his status. Let's finish our work, using the mechanisms we already have in place. Pick up the indicted war criminals from Bosnia who took their orders from Belgrade. Let the tribunal name Milosevic the war criminal he is. Then issue an ample bounty for his delivery, alive, to The Hague.

Swanee Hunt served four years as the American ambassador to Austria and has hosted multiple negotiations, international conferences and humanitarian initiatives related to the Balkans. She currently directs the women and public policy program of the Kennedy School of Government at Harvard University.

THE WHITE HOUSE
WASHINGTON

DATE: 2/22/00

NOTE FOR: Eli Segal

The President has reviewed the attached, and it is forwarded to you
for your:

Information ☒

Action ☐

Thank you.

Staff Secretary
(x6-2702)

cc:

Eli Segal
2315 Bancroft Place N.W.
Washington, DC 20008

2.22.00

Copied
Segal
Podesta

TALKING POINTS FOR CALL TO BOARD MEMBERS OF NATIONAL CAMPAIGN AGAINST YOUTH VIOLENCE

- Thank you all for joining this call today and, more importantly, for agreeing to give your time and energy to the Board of the National Campaign.
- Last week reminded us again how much youth violence still plagues us. Littleton lost two more young people to gun violence. And here in DC, two shining stars were killed on their way home from a high school basketball game.
- So your leadership now is timely and vital, and I'm hopeful about what this Campaign can do. As Jeff has described, the Campaign will be working on three fronts: a city-by-city effort to engage local communities, a national media campaign, and a school-based program led by young people. With your help, all these efforts can reinforce each other.
- What's great about this Board is that it engages people from so many sectors of society – from the media to grassroots organizations to government. Jeff has told me about the work that some of you have already begun, and I think it's exciting. Some examples are:
 - AOL is planning a feature on its Teen Channel to allow kids to speak out on violence;
 - Advisory Councils of young activists and academic experts have been launched;
 - CBS has committed to help young people to develop their own PSAs on youth violence;
 - a Bipartisan Congressional Working Group on Youth Violence led by Representatives Jennifer Dunn and Martin Frost has been created;
- I want to make sure my Administration does its part too. In the budget I just sent to Congress, I am proposing over \$8 billion in various efforts to prevent youth violence: afterschool programs, a proposal to create smaller and safer high schools, tougher enforcement of gun laws, and many other programs. We have also launched a White House Council on Youth Violence to coordinate the anti-violence efforts of all federal agencies. And of course, I am continuing to push Congress to pass common-sense gun measures.
- I hope today we can talk about where this Campaign can go – and about ways you can continue to lead its efforts, by example and by persuading others to act. Call on three Board members. (They have been alerted that you may call on them, and they are to speak briefly):
 - Discovery Networks will air a national town hall from Memphis April 14 and produce a three-part series on youth violence (Judy McHale);
 - Time-Warner: Court TV will distribute an anti-violence curriculum it produced and Teen People will sponsor concerts and youth forums in eight cities (Dick Parsons);
 - Major League Soccer will lead an effort by professional sports leagues to promote good citizenship through sports (Don Garber).
- I know many others of you have also been making meaningful commitments, and I thank you all. We have a lot to do in the months ahead, and I'm grateful for your service.

Hi
M...
W...



2-22-00

Lais - You should follow
up with Burkhardt's
office. B.

00 JAN 25 PM 1:04

United States
Department of
Agriculture

Office of the
Secretary

1400 Independence
Avenue, SW

Washington, DC
20250-0100

January 24, 2000

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

In recent months, there have been delays in implementing parts of USDA's International Food Aid Program, particularly the 416(b) activities. This could be because the Office of Management and Budget has requested much more information about the commodities, physical conditions in the various countries and financial matters.

The Food Assistance Policy Council, which includes senior representatives of the Departments of Agriculture and State, and of the Agency for International Development and the Office of Management and Budget, has the responsibility for these programs. It was established by Executive Order 12752 by President Bush on February 25, 1991.

I have attended two meetings relating to this matter in recent weeks --- the latest of which was January 20, 2000. At that meeting, the Council considered aid for people in approximately 65 countries. It recommended direct feeding humanitarian assistance to 27 countries. The Council also recommended, subject to review by the Office of Management and Budget, humanitarian assistance to 20 other countries to be furnished through a food aid monetization process. It also recommended aid to eight (8) other countries, but subject to decisions by people at the White House after considering political matters.

The monetization process seems to be of much concern to some of the people at OMB. This method of furnishing aid has been used for 25 or more years. For hungry people in many countries, this seems to be the most efficient and effective way to deliver food and its benefits to those who need it.

Donating the food to a Private Voluntary Organization which sells it in the local market helps to keep prices lower for the people. The funds from the sale of the food then can be used for such purposes as acquiring local commodities for schools or other worthy groups, medicines for those in need, daycare and other mother-child assistance programs. The proceeds can also be used for AIDS prevention and treatment, agricultural development, education, public works and small

Sean -
Should we put on
the system? ☒ Yes ☐ No
Send to Burkhardt? ☒ Yes ☐ No
COORDINATE w/ OMB BC SIG RED DOT ☒ Yes ☐ No

The Honorable William Jefferson Clinton
Page 2

enterprise development. Such activities can have a longer humanitarian input on the lives of poor people.

It is my impression that the people at AID, the State Department and the Department of Agriculture who work on this Council have a great deal of knowledge about the need for food in the various countries and have very good judgment about determining who needs the assistance, the kind of food that should be made available in each country, and the most effective method for getting the food to the people who need it.

They deserve high commendations for their work; but they need to be allowed to do their work.

It is my hope you will let the people at OMB know that this program does much good for many people in other countries, that it used only when there are surplus agricultural commodities, that you are for this assistance and that OMB should support it, including the monetization part.

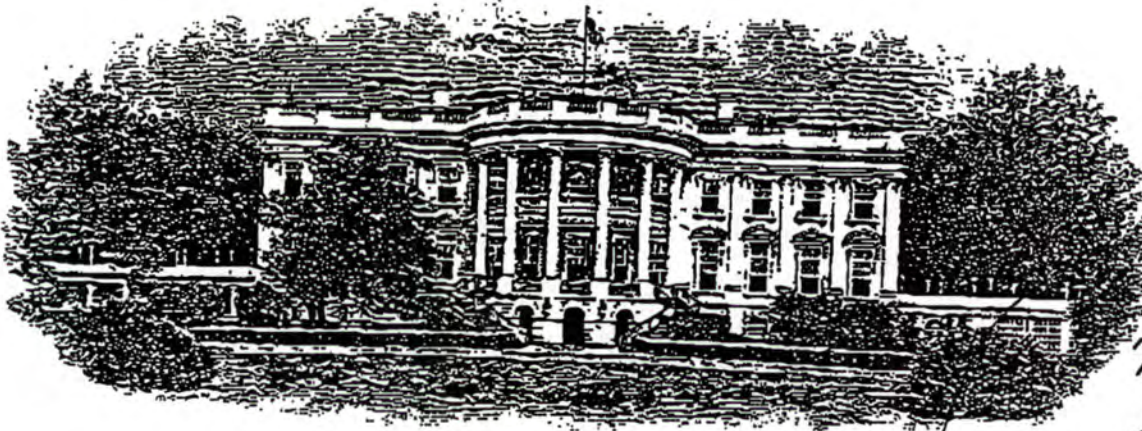
Sincerely,

A handwritten signature in cursive script, reading "Carl S. Whillock".

CARL S. WHILLOCK
Special Assistant to the President for
Agricultural Trade and Food Assistance

CSW/frj

THE WHITE HOUSE
WASHINGTON
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE CHIEF OF STAFF



Please Deliver To:

JACK LOW

Fax Number:

5-1005

Sender:

John Podesta

Date:

2/3

Pages Including Cover:

4

Message:

Please call/see me on this.

NOTE:

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2/17/00

Anil -
Did target
take care of
TY
Smt



THE PRESIDENT HAS SEEN
2-2-00
THE WHITE HOUSE
WASHINGTON

February 2, 2000

MR. PRESIDENT:

We are working with OMB to prepare
a reply on your behalf.

Padesta
Sean Maloney
Can someone right
on this - As letter
checked out
RM

*copied
Padesta*



THE PRESIDENT HAS SEEN

2-2-00

00 JAN 25 PM 1:04

United States
Department of
Agriculture

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1400 Independence
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January 24, 2000

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The White House
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The Honorable William Jefferson Clinton
Page 2

THE PRESIDENT HAS SEEN
2-2-00

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Sincerely,



CARL S. WHILLOCK
Special Assistant to the President for
Agricultural Trade and Food Assistance

CSW/fj

THE PRESIDENT HAS SEEN

2-22-00

~~Stensby~~
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Foreign Affairs

THOMAS L. FRIEDMAN

Dear Ehud, Hafez and Yasir

Memo From: Bill Clinton

To: Ehud Barak, Hafez al-Assad and Yasir Arafat

Dear boys, it's been a while since we've talked, but with all of your negotiations now derailed it's time we had a blunt conversation. I just have a few basic questions: Hafez, can you spell? Yasir, can you subtract? And Ehud, can you add and spell?

Hafez, when I ask "can you spell?" what I'm asking is, can you spell the word "peace" any way other than "h-a-t-r-e-d"? I've started to wonder if that's the only spelling you know. Look at you: The peace talks don't go to your liking, so you unleash the Hezbollah to start killing Israelis in South Lebanon, and your newspaper starts calling the Holocaust "a myth." Then on Jan. 27, your foreign minister, Farouk Shara, gave a speech to the Arab Writers Association in Syria. He was asked whether by ending the struggle with Israel Syria wasn't granting "the Zionists a right in Palestine." Farouk answered: "This is an important question, because even the Baath Party, of which I have the honor of being a member, understands that restoring Palestine in its entirety is a long-term strategic goal, that cannot be achieved in one stage. . . . The first stage is the stage of restoring the occupied lands [of 1967] and of guaranteeing the national inalienable right of the Palestinian Arab people."

Well, ain't that great! Farouk just wrote the perfect bumper sticker for

Ehud Barak's opponents in any Israeli referendum over whether to give back the Golan. I can see the Likud bumper stickers now: "Farouk Shara says Israel's withdrawal from the Golan is just stage one. What's stage two?"

When I read stuff like that, Hafez, my first reaction is that you guys are just being stupid. But then I wonder: Is this stupidity or is this autobiography? Is this you being stupid or being yourselves? In fact, the more I listen to Farouk the more I think he's not looking for a peace deal, he's looking for an alibi. In that same speech, he said that if the Israelis didn't agree to Syria's terms: "We will lose nothing, because we will win the sympathy of Arab and international public opinion . . . because we will tell them: 'We did all we could. We went, we talked, we showed open hearts and minds, but the expansionist racists want to force their terms on us.'"

Nice, Hafez. It's poetry like that that's sure to win the hearts of Israelis.

Now Yasir, I know you can add to 100 — that you want 100 percent of the West Bank and Gaza and East Jerusalem as part of any final peace with Israel, but can you subtract from 100? Let's get real here, pal. The most you can expect is something like 70 to 80 percent of the West Bank and some symbolic presence on the edge of Jerusalem. I know you don't want to subtract until you are sure that Barak can add, but as long as you don't start subtracting in public, Barak is able to get away without adding.

And that brings me to you, Ehud. I know you can add to 50 — that the Palestinians will get 50 percent of the West Bank. But can you add to 75? I'm all for letting the 80 percent of Israeli settlers who comfortably live on 25 percent of the West Bank stay. But 25 percent ain't 50 percent, pal. There will be no stable peace without the Palestinians getting some 75 percent of the West Bank back, plus a Palestinian toehold around Jerusalem and some restitution for their refugees. As long as you don't make clear that you can add those three things, you'll never really know whether Arafat can subtract.

Ehud, I have to confess: I'm still not quite sure who you are. Are you just the guy who is going to implement what Netanyahu said he would implement, but never did, or are you a Rabin — someone ready to really break the mold? Do you spell your name "B-i-b-i" or "Y-i-t-z-h-a-k"? And while I'm checking, I also need to know if you know how to spell "Syria." Because you keep spelling it "L-e-b-a-n-o-n." Ehud, leave the Lebanese alone. You and the Syrians are playing a dishonest game. Instead of hitting each other, you keep punching the Lebanese. They aren't the problem or the cure. You know the Syrians are behind the war in South Lebanon, so stop bombing Beirut's power stations. *Hit the Syrians!* Make Hafez pay in his own coin. Then at least we'll find out who he really is.

Boys, we've done all the easy stuff. Now we're down to hard-core basics — adding, subtracting and spelling. When you all show me you can do that, we're in business again. Until then, it's recess. □

THE PRESIDENT HAS SEEN

2.22.00

~~Sandy~~
This is
~~Mary Downing~~ ~~PL~~


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Berger
Podesta

vocabularies simply because their use offended mom.

I can remember scolding my 4-year-old: "We don't say 'stupid' in this house! It's a bad word, and I don't want to hear you use it again."

So "stupid" became "the s-word," off-limits in tantrums or arguments among them. That rule held for years, and "stupid" was joined by "hate" and "dummy" and a whole list of proscribed words that I deemed too hurtful to tolerate.

Now the 4-year-old is 14, and her little sisters run to me with tales of new s-words and h-words and d-words words they say she slips into her conversations when she thinks they are not listening and knows mom's not around.

And I am forced to consider it a victory that if she's going to curse, at least she sneaks to do it.

When I was growing up, I knew kids who got their mouths washed out with soap for cussing. Now, I know families in which parents curse at their kids and the kids curse right back.

"Once they're teen-agers, you really can't control how they talk," an exasperated neighbor once confided, after we'd witnessed her 16-year-old son dressing her down with a loud string of expletives.

"I figure I've got bigger things to worry about than whether he says 'damn' ... like keeping him in school and off drugs."

Maybe she's right. Maybe concern about off-color language is quaint and outdated in an era in which kids attend church sporting tongue rings, and high school basketball players with tattoos earn straight A's.

Indeed, studies show cursing is on the upswing, particularly among women and children. Among teen-agers, foul language is now not merely socially acceptable but considered "cool" by more than half the kids polled.

Still, I can't help but wonder whether the obscenities that pepper our conversation reflect not just a cheapening of our language but a debasement of our self-image as well. Are we just going with a more progressive flow or are we in the midst of a cultural sea-change that we will look back on and lament years from now?

What will it mean to my daughters, I wonder, to grow up hearing the "b-word" (think female dog) slip from the mouths of rap singers and television actors so casually. When I was young, any boy with the nerve to disrespect a girl by calling her that would have taken a whipping from her brother or father if she didn't smack him one herself.

Today, boys routinely address their girlfriends that way, and girls use the word to greet one another. It has moved from curse word to slang, from insult to adjective.

Steve Travers, a columnist for a sports magazine based in the Los Angeles area, also is troubled by the trend.

"I've used language I'm not proud of. I know nobody's perfect. But more and more these days, I hear people calling each other m----- f----- all the time. They use that word almost as a greeting to a friend, like the way people used to call you 'buddy' or 'pal.' It takes me aback every time I hear it."

And what he heard 10 days ago at a basketball game between UCLA and USC made him feel that we have reached a new low.

"We were at Pauley Pavilion, and the (UCLA) student section finished off their school song by yelling 'F--k SC' every time, every few minutes. This was orchestrated by their yell leaders, who, one would presume, operate under the imprimatur of official school policy.

"And no one seemed to notice or be bothered by it....

"And I just kept thinking that (legendary former UCLA basketball coach) John Wooden must be cringing in his seat (in the arena). Here's a man who the worst thing he ever said in his life is probably 'Goodness gracious, sakes alive,' and this is what his school has come to."

It is a change that seems to have crept up on us without our notice or permission.

Last year, my daughters then 8, 10 and 13 used to crawl in bed with me at night to watch our favorite television show each week. This year, we flipped it off for good after an episode that included, in the first five minutes, three mentions of that "b-word."

Am I being prudish, too protective? Maybe. But I like the fact that my 11-year-old blushes when someone says the word

"sex" and my 9-year-old cries when she hears mommy slip and swear under pressure. (OK, so I'm not perfect.)

I don't delude myself into thinking I can succeed as the language police. I will be content, I think, if my children grow up listening to other people swear but consider it something we don't do ... like smoking or drinking Coke near bedtime or keeping our dog chained up outside.

And for now, I am satisfied that my teen-age daughter is content to hear the rap music she loves on the radio, where the worst of the curse words are bleeped out ... even though it means some songs have more bleeps than words.

And that her little sister is still innocent enough to wonder whether the singers really say all those bad words, or just record the songs with bleeps.

Once Again, Milosevic Has His Way With Peacekeepers By Susan Blaustein

Special to the Los Angeles Times

The divided northern Kosovo city of Mitrovica has long been regarded as the flash point most likely to sink the international peacekeeping mission in Kosovo. Yet, Kosovo's top international officials have allowed the long-smoldering violence there to explode, underscoring again how their failure of will promotes the agenda of the man whose downfall NATO sought to bring about: indicted war criminal and Yugoslav President Slobodan Milosevic.

Mitrovica is not just another Balkan caldron of centuries-old hatreds. This industrial city straddling the polluted Ibar River is a linchpin in Belgrade's "Greater Serbia" strategy of expelling all non-Serbs from the region.

Milosevic has never had more than a propaganda interest in northern Kosovo's historically significant monasteries. But he does have a keen financial interest in the Trepca complex of mines and downstream processing facilities, including a smelter in Zvecan, which is widely believed to have served the regime as an efficient money-laundering mechanism. Since the deployment of NATO's Kosovo Force, or KFOR, Trepca's Serb directors, who report to Milosevic, have continued to operate the Zvecan smelter to process ores trucked in by foreign companies still doing business with the regime.

Mitrovica is Milosevic's only remaining foothold in Kosovo, and it is there that he has decided to call the bluff of the international community, in flagrant violation of the peace accord. With the apparent acquiescence of the French KFOR command, which has been loathe to risk casualties, and the local U.N. administrators, Milosevic continues to send Serbian police and paramilitary forces across the Serbia-Kosovo border and into the Mitrovica area. These operatives monitor, harass, terrorize and expel Albanian civilians who dare to live on, or even to venture into, the Serb side of town, where the hospital and university are located.

For months, French commanders have denied that there were Serbian police or paramilitary troops in the area or near the Trepca complex, despite regular and reliable reports to the contrary. French soldiers guarding the pedestrian bridge over the Ibar would shrug as Serb toughs denied entry to Albanians and foreigners wishing to enter north Mitrovica. When French troops escorted Serb laborers to work in a Trepca-run battery factory located on the southern, Albanian side, they stood by as the Serbs made off with the facility's heavy processing equipment.

After last week's wounding of two French soldiers, the death of an Albanian shot by the French, who refused to transport the wounded man to the French field hospital for treatment, and Albanian outrage at what they perceive as blatant French partisanship, the French troops guarding the bridge were replaced by British troops seasoned in Belfast. German, Dutch and Italian reinforcements were sent in, too, and, on Thursday, the first of 300 U.N. international police were deployed to Mitrovica.

But the French remain in overall command of the region, and from all appearances, German KFOR Gen. Klaus Reinhardt continues to accept their assessments of the situation in Mitrovica. More worrisome, Reinhardt and an increasing number of frustrated international officials are abandoning the U.N.'s stated commitment to create and protect a multiethnic society in Kosovo. Instead, they favor something closer to their French colleagues' view that mixing the two populations is impossible, and all that can be done is to keep the two from killing each other. Put another way: It's OK if

THE PRESIDENT HAS SEEN

2-22-00

Sandy

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forecast

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Berger

Podesta

THE PRESIDENT HAS SEEN

2-22-00

MEMORANDUM

To: President Clinton
Fr: Senator Harkin
Re: Trip to Bangladesh
Dt: February 22, 2000

As you may know, there is a very successful program regarding child labor in Bangladesh. I have given a detailed analysis to Gene Sperling regarding this project. The US Government provided initial funding and continues to provide funding for this project through the International Labor Organization (ILO).

Two years ago, I visited the schools and this project in Dhaka. This was an uplifting experience for me to witness many young girls learning to read rather than working. The point is that if we can eliminate child labor in an industry, in one of the poorest countries in the world, we can replicate this model elsewhere. Additionally, this project highlights your budget request of \$100 million for child labor for FY2001.

I hope that you would visit this project and one of its school rooms while you are in Dhaka. I would urge you to use this occasion to praise the Government of Bangladesh and the Bangladesh Garment Manufacturers Export Association (BGMEA) for their efforts in this program.

However, one warning, the BGMEA has made a formal request with the US Trade Representative to raise their quota. The BGMEA feels that they have done a good job on child labor and they need to increase their quota. I agree that a quota increase tied to child labor should be considered, as this could send a strong signal to the rest of the world for others to replicate this initiative.

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Berger
Podesta

Lanny J. Davis
12517 Bracken Hill Lane
Potomac, Maryland 20854

THE PRESIDENT HAS SEEN

Standy 2-22-00
for

Bo

February 21, 2000

President William Jefferson Clinton
The White House
Washington D.C. 20050

Dear Mr. President:

In your seven years in office, I have only written you once before on behalf of a client of my law firm. That was in 1995, when I wrote you on behalf of the Government of Pakistan and then Prime Minister Benezir Bhutto and asked you to consider a just solution for the F-16 planes problem: "the money or the planes, what's fair is fair." As I recall, officials in the State Department at that time advised against your agreeing to such a solution, but three years later, you reached that equitable result.

Now I write you again - once again on behalf of the Government of Pakistan - and this time I ask you to do what is right not only for Pakistan but, more importantly, for American interests and for your own historic legacy. And that is for you to visit Pakistan during your scheduled trip to the sub-continent next month.

I believe the attached letter from General Musharraf to Senator Tim Johnson goes a great way towards clarifying the Pakistani government's commitments on three vital issues which I know are priority concerns of our Government: a commitment to hold democratic elections and to devolve power to the local level no later than the end of this year; an aggressive stance against terrorism, regardless of the cause; and non-proliferation, including negotiations with India over Kashmir.

The only argument I have heard for your not visiting Pakistan is that you will be sending the "wrong message" by doing so. People who say that just don't know you very well. I am confident that upon your visit to Pakistan you will speak out clearly and articulately on the issues of democracy, due process, terrorism and non-proliferation. I also know you that by your visit to Pakistan you will reinforce the "right message" of political moderation, democratic values, and the need for negotiation between India and Pakistan on Kashmir and other issues that have led to tension in the sub-continent over the last three decades.

On the other hand, if you visit India and not Pakistan you will most certainly be sending the wrong message - a perception of imbalance, one that could contribute to instability in the region and to worsen tensions, encouraging the forces of fundamentalism and anti-Americanism in Pakistan just as the Pakistani Government clearly is trying to orient itself towards the west, moderation, and a secular-based democracy with renewed and strengthened democratic institutions.

Page two

President William Jefferson Clinton

Please, Mr. President: Follow your instincts. Visit Pakistan. Be true to your values and your vision. You can ensure the right message is delivered and, as you did in Northern Ireland and the Middle East, honor your historic legacy of being a force for negotiation and peace and justice in the world.

I have great faith in you, as you know – most especially, in your gift for bringing people together.

Your friend,

A handwritten signature in cursive script that reads "Larry". The signature is written in dark ink and is positioned below the text "Your friend,".

FRI, 04-FEB-00 16:27

D.M.S. TO CHIEF EXECUTIVE 51 9225305

P.02



CHIEF EXECUTIVE

Islamabad

04 February 2000

Dear Senator Johnson,

I thank you for your letter of 1st February and appreciate the useful exchange of views I had with you when you visited Pakistan recently. We greatly value friends like yourself and their endeavours for sustaining a strong relationship of cooperation between Pakistan and the United States. You have rightly pointed out that collaboration between our two countries served the interest of regional and international peace in the past and its preservation is important for the future.

US support and Pakistan's role during the Afghan liberation struggle, the last front of the Cold War, contributed to a momentous global transformation. As a result, the world witnessed resurgence of freedom and independence of captive nations. Our two countries have cooperated closely in peace keeping operations in several troubled spots of the world. Pakistan was a bridge for the Sino-US rapprochement which has been a seminal development of our times. Altogether, Pakistan-American cooperation has been a positive factor for peace and progress in world affairs for half a century and we want to see it remain so in the future.

I agree with you that it is important for President Clinton to visit Pakistan when he is in the region next month. In addition to a number of important issues of mutual concern to our two countries, President Clinton's visit will provide a unique opportunity to discuss and promote peaceful solution of Kashmir which is the root cause of tensions and conflict in South Asia. This will also be consistent with President Clinton's personal commitment which has been a source of hope for durable peace.

FR., 04-FEB-00 16:27

D. M. S. TO CHIEF EXECUTIVE 51 9225305

P. 23



We greatly appreciate the concern expressed by 61 members of the Senate and the House of Representatives in their letter to President Clinton asking him to appoint a Special Envoy to encourage Pakistan and India for negotiations on Kashmir. This initiative is timely and in the interest of peace in our region.

Regrettably, India is stubbornly pursuing a military solution to Kashmir and has intensified repression, encouraged by an apparent international complacency. This will further aggravate tension and escalate violence in the region. A political solution which satisfies the legitimate aspirations of the Kashmiri people alone can bring to an end the Kashmir conflict. This is the reason why we urge the United States to play in Kashmir the same admirable role which has helped to heal the pain in Bosnia, Kosovo, Northern Ireland and the Middle East.

During our meeting in Islamabad, we had the opportunity of focusing on the three areas of concern identified by you. We share your concerns and my Government has clear and forward looking positions on these issues. My Government is firm in our resolve to bring genuine democracy in the country. The people of Pakistan want institutions which can give them real sense of participation, empowerment and responsibility. Meanwhile, the fundamental rights, including the freedom of the press, are fully safeguarded.

It is the endeavour of my Government to rehabilitate the democratic process through devolution of power and ensure that elected representative bodies are in place at the district level before the end of the current year. The necessary steps are in hand for electoral reforms, strengthening of the Election Commission to make it fully independent and decisive, preparing of electoral rolls, computerisation of registration and fresh delimitation of constituencies. I feel that it would be self-defeating to hold national elections at this stage, before the much needed reforms are implemented and consolidated.

It is vital that genuine functional democracy is built on the basis of sound institutions to avoid the disappointing experiences of the past. The objective of electoral reforms is as much a priority of my Government as economic revival, improved governance, law and order and accountability. In these endeavours we look to the support and understanding of our friends.

FRI. 04-FEB-00 16:26

D. M. S. TO CHIEF EXECUTIVE 51 9225305

P. 04



Pakistan's opposition to any form of terrorism is unequivocal and unconditional. Only a couple of days ago, I met the Afghan President and briefed him in detail about the global concern over terrorism and the need for Pakistan and Afghanistan to take practical steps to combat this evil. I am happy to say that the Afghan President was responsive and shared these concerns and strongly reaffirmed his government's policy not to allow Afghan soil to be used for any acts of terrorism.

You will recall that Pakistan had condemned the hijacking of the Indian Airlines aircraft and had publicly stated that the hijackers will be apprehended and brought to justice if found on the territory of Pakistan. We do not condone acts of terrorism even by misguided Kashmiri freedom fighters, since such acts can only hurt the Kashmiri cause. We, therefore, doubt the motivations and credentials of those who are responsible for this crime. India, on the other hand, is making every effort to use this episode to malign Pakistan and put a distance between Pakistan and the United States. Such sinister designs must be firmly countered and exposed.

Pakistan itself is a victim of terrorism sponsored from outside. We are witness to the ravages of state sponsored terrorism in Kashmir. We condemn and oppose all forms of terrorism which cannot be condoned even if perpetrated in the name of a freedom struggle or religion.

Pakistan has always been sensitive to international concerns on nuclear proliferation. Every initiative to keep our region free of nuclear weapons emanated from Pakistan. We did not initiate the May 1998 tests, but the Indian tests and India's hostile posture towards Pakistan verging on nuclear blackmail after the tests, made it imperative for us to restore the strategic balance and establish nuclear deterrence. Simultaneously, however, we declared a moratorium on further testing, expressed our opposition to a nuclear arms race and made our offer to India to negotiate a nuclear strategic regime.

We also engaged in a dialogue with the US on the four nuclear benchmarks identified by President Clinton. Our positive attitude during this dialogue has been evident in our positions relating to export controls, nuclear and missile restraint, our constructive position in Geneva on FMCT negotiations and even the Comprehensive Test Ban

FROM :

PHONE NO. :

Feb. 04 2000 11:24AM FS

FRI. 04-FEB-00 16:29

D. M. S. TO CHIEF EXECUTIVE 51 9225305

P. 05



Treaty. We have set in motion a process of discussions for building support to enable the Government to sign the treaty. A major hurdle in preparing public opinion is the coercive environment caused by the sanctions which we regard as unjust. Our public also cannot ignore the ambitious nuclear programme unveiled by India in the recent months.

On our part, we remain committed to pursuing a nuclear policy of responsibility and restraint based on minimum credible deterrence to ensure our security. We remain opposed to an arms race, nuclear or conventional, in our region, and believe that the resources of the region must be channelled for the welfare and better future of its people.

I hope this letter will help you and your colleagues towards better understanding of the position of the Government of Pakistan on the issues that you had asked me to address. I thank you again for your interest in the issues of our concern and for your efforts to promote understanding and friendship between our two countries.



(General Pervez Musharraf)

Senator Tim Johnson,
United States Senate,
324 Hart Senate Office Building,
Washington, D.C. 20510-4104

Diane and Ned Powell
3939 Fordham Road, NW
Washington, DC 20016-1937

THE PRESIDENT HAS SEEN
2-22-00

*JP/Resent
we need to
on this - we are
leaving? —*

William J. Clinton
President
The White House
Washington, D. C. 20005

*copied
Podesta
Ricchetti*

THE PRESIDENT HAS SEEN

2-22-00

Edward A. Powell, Jr.
3939 Fordham Road, NW
Washington, D.C. 20016-1937
202-237-7511
202-237-8630 (Fax)
e-mail: eapjr@aol.com

00 FEB 22 PM 2:38

February 21, 2000

William J. Clinton
President
The White House
Washington, D. C. 20005

Dear Mr. President,

I need your help. The past few months at the VA have proven to be difficult, and now appear to be headed in a more bizarre direction than I could ever have imagined. It doesn't have anything to do with the VA per se, as the people who work for the VA are superb, and the mission is outstanding.

The short reason is very simple. Secretary West. I know you have awareness of various difficulties he has caused with OMB and the veteran's service organizations. Whether or not you know the depth of his harm to the VA is problematic. I do not relish being the bearer of such news, nor do I have any particular desire to go into chapter and verse, but I can provide details if you want. John Podesta, Jack Lew or Bob Nash can as well, and would perhaps provide you more objective sources. Charles Burson can shed light on the matter, and affirm that I have fulfilled my commitment to you to serve your administration and make you proud of your trust in me.

Recently, I was extensively quoted in an AP story about mismanagement in the VA's Congressional Affairs' Office. Obviously, I did not write the story nor seek its publication (it is enclosed). I was quoted accurately. Because of the story, Togo has now, in essence, declared me persona non grata. I am being excluded from meetings which are clearly appropriate for me to attend. Issues where I need his help are being completely ignored.

Such banishment is a bit of a badge of honor at the VA. Having ignored me since I came, it really isn't such a big deal. I know perfectly well how to get things done without him. The problem really stems from the fact he has now gone too far in his unusual behavior and his absolute self-absorption. The Department has several initiatives underway which need strong leadership, something the Secretary seems incapable of providing.

VA has a superb budget this year and we are well positioned to be a great asset to VP Gore. Dealing with Togo may or may not fit priorities and the pain threshold necessary to take direct action. I understand all of that. The help I need from you is some guidance.

I have come to truly believe in the VA, its mission, and its people. I also feel I can be a significant help to VP Gore at the VA. However, going to work every day, dealing with the nonsense of Togo and his office, is very debilitating. I have virtually no tolerance for the arrogance, condescension, and rudeness typical of him and his Chief of Staff.

Diane and I have paid a great price to serve your Administration. We have done so willingly, and feel greatly rewarded for the experience. The price of staying has gone up considerably in the last week. If this is where you need me to stay, then I will and will do so to the best of my ability. If, however, there is another opportunity where I can be of service, please know I would appreciate being considered.

A handwritten signature in black ink, appearing to be "J. R. R.", written in a cursive style.



NEWS STYLE SPORTS CLASSIFIEDS MARKETPLACE
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VA Office Warnings Predated Audit

Partner Sites:

[Newsweek.com](#)
[Britannica Internet Guide](#)

By Larry Margasak
Associated Press Writer
Friday, Feb. 11, 2000; 3:16 a.m. EST

WASHINGTON — Nearly a year before a devastating audit exposed the situation, top officials at the Veterans Affairs Department were repeatedly warned of questionable hiring and overspending in the agency's congressional liaison office, documents show.

The problems at the Office of Congressional Affairs have angered a major veterans organization. A key lawmaker on veterans issues questioned why the official who led the office, Sheila Clarke McCready, is still at the agency earning \$130,000 a year.

"No other office in the VA during FY '99 showed such callous disregard for reasonable financial management as OCA," chief agency financial officer Edward A. Powell Jr. wrote Veterans Affairs Secretary Togo West on Jan. 19.

The memo was among several VA memos and e-mails obtained by The Associated Press, in which Powell, internal auditors and other officials alerted top management of the problems during 1999.

Little action was taken until an inspector general's audit last month concluded McCready overspent her \$2.3 million budget and improperly hired consultants to do the work of career employees.

At one point, Powell had to transfer \$390,000 to cover extra spending in the liaison office, records show. The audit alleged the office failed to answer congressional requests on behalf of veterans for months.

McCready has been transferred to a job in the Veterans Health Administration but continues to earn more than \$130,000 a year. She did not respond to phone messages seeking comment Wednesday or Thursday.

Her attorney, Richard Gordin, said she "was carrying out the secretary's instructions in her efforts within the department and a full disclosure of all memoranda and e-mails would confirm that she acted completely appropriately." He would not supply any of those documents.

Rep. Terry Everett, R-Ala., chairman of the House Veterans Affairs investigations subcommittee, complained that McCready still holds a high position in the agency.

"In the real world, a corporate executive who overspent his office budget by almost \$390,000 and reduced his organization to chaos would be shown the door," he said.

The national commander of the American Legion also expressed concern.

"If they had over a year to correct the problem, this organization is very concerned with the absence of proper management," said the commander, Alan G. Lance.

"Many of our veterans ... who do not receive satisfactory responses, adequate care or entitlements go directly to their congressmen," Lance added. "As a result of the failure to correct the problem, how many veterans failed to get legitimate benefits?"

VA spokesman John Hanson declined comment Thursday on why West did not act sooner. Hanson pointed out that McCready has been transferred and all but one consultant – who now is one of West's schedulers – had their contracts terminated.

The internal memos detail a yearlong campaign by Powell, the chief fiscal officer, and others to raise concerns about McCready's office.

Powell wrote McCready on Feb. 22, 1999, that he was "troubled" by her desire to add staff without a department-required reorganization plan, and added, "I am not inclined to support additional funding for new personnel" without such a plan.

In September, Powell wrote VA chief of staff Janice Joyner that McCready "has consistently overspent her budget and continues to do so."

Stephen Gaskell, an official in the inspector general's office, wrote McCready on Sept. 24 that her actions to extend the temporary assignment of a Defense Department employee were "inappropriate" under terms of the federal Anti-Deficiency Act.

That law prevents federal officials from spending money before they know the funds are approved.

Two months earlier, VA budget official Kathleen Hamilton raised concerns that she had "not received any documentation" from McCready to justify the Pentagon detail – a legal requirement for such interagency agreements.

Gordin, McCready's attorney, said his client's hiring and spending decisions were "within the guidelines that she as a career government employee was provided by appropriate officials within the department."

Last September, McCready denied in an e-mail to Powell that she improperly used consultants or exceeded "my amended budget

authority."

Powell, in his Jan. 19 memo to West, disagreed.

"Again and again, Sheila would request funding for activities which had not been authorized," Powell wrote. His memo added that McCready "threatened me with your displeasure if I did not let her do what she wanted."

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THE PRESIDENT HAS SEEN
2-22-00

THE WHITE HOUSE
WASHINGTON

00 FEB 19 PM 1:51

February 18, 2000

MEMORANDUM TO THE PRESIDENT

FROM: MELANNE VERVEER, CHIEF OF STAFF TO THE FIRST LADY
ELLEN MCCULLOCH-LOVELL, ADVISOR TO THE FIRST LADY ON THE
MILLENNIUM
SUBJECT: MILLENNIUM EVENINGS IN 2000

In the last two years we have produced eight Millennium Evenings at the White House: four each in both 1998 and 1999. We've played off our *Honor the Past – Imagine the Future* theme, and made the point that you value our society's creators and innovators. The list of Millennium Evenings to date is attached and we have several exciting ideas we hope to present in 2000.

Proposals for 2000 Millennium Evenings

The First Lady would like to present three or four Millennium Evenings in 2000, with your concurrence. She also is in favor of holding a Millennium Evening with a guest to co-host with you – such as a Cabinet Secretary – if she cannot attend.

She has selected the following ideas that interest her and asked us to seek your opinion on those you would like to see presented. Please check any you would like developed further and give us your comments.

<u>Subject</u>	<u>Proposed Idea</u>	<u>Proposed By</u>
Religion/ Democracy	The Great Experiment: Faith and Freedom in the American Republic	HRC, WH Millennium Council
Science	Under the Sea, Beyond the Stars (What we are learning from the deep sea exploration and from deep- space probes – Hubble and Chandra)	WH Millennium Council, OSTP
Peace	The Peacemakers of the 21 st Century or Is Peace Possible?	US Institute of Peace, National Peace Foundation

220.00

Science

The Decade of the Brain:
How Neurology Research Will
Affect Mental Health (could be
with Mrs. Gore)

OSTP, Dr. Fischbach
NIH, WH Millennium Council

History/Science

New Archeological Discoveries:
What They Tell Us About Human
Development and Migration

HRC/WH Millennium Council

History/Justice

One America/Indivisible
(a consideration of race in
American society)

WH Millennium Council

Would you like to hold 3-4 Millennium Evenings in 2000?

☒ YES

☐ NO

☐ LET'S DISCUSS

Are there any other topics you would like explored?

We look forward to hearing your comments and to scheduling the new Evenings.

Not now

Could we have then
+ The Peace topic
at the end of the
evening - is there a
conflict - is there a
magnifying glass etc.

Millennium Evenings at the White House to Date

Feb. 11, 1998	The Living Past: Commitments for the Future	Bernard Bailyn, Prof. Emeritus, Harvard University
March 6, 1998	Imagination and Change: Science in The Next Millennium	Stephen Hawking, Cosmologist, Physicist, and Author
April 22, 1998	A Celebration of Poetry in American Life	Robert Pinsky, Robert Hass, Rita Dove, US Poets Laureate
Sept. 18, 1998	Jazz: An Expression of Democracy	Wynton Marsalis, Marian McPartland
Jan. 25, 1999	The Meaning of the Millennium	Martin Marty, Historian of Religion Natalie Zemon Davis; Historian, Univ. of Toronto
March 16, 1999	Women as Citizens: Vital Voices Through the Century	Alice Kessler-Harris, Historian, Columbia Univ.; Ruth Simmons, President, Smith College, Nancy Cott; Historian, Yale Univ.
April 12, 1999	The Perils of Indifference: Lessons Learned from a Violent Century	Elie Wiesel, Nobel Laureate, Author, Professor
October 12, 1999	Informatics Meets Genomics	Dr. Eric Lander, Dir. of the Whitehead Institute/MIT Center for Genome Research, Dr. Vinton Cerf, Senior VP of Internet Architecture and Tech at MCI WorldCom

THE PRESIDENT HAS SEEN
5-22-00

THE WHITE HOUSE
WASHINGTON

February 21, 2000

RECOMMENDED TELEPHONE CALL

TO: Senator Orrin Hatch

DATE: As soon as possible.

RECOMMENDED BY: *Beth*
Beth Nolan and Mark Childress

PURPOSE: To ask for Senator Hatch's continued support for Judge Richard Paez, your judicial nominee for the Ninth Circuit.

BACKGROUND: Senator Lott has agreed to hold a vote on Judge Richard Paez by March 15, 2000. The vote may take place any time after the Senate returns on February 22, 2000.

Judge Paez's nomination has been pending for more than four years – longer than any judicial candidate in modern history. Judge Paez was favorably reported out of the Judiciary Committee on two occasions; both times, Senator Hatch voted in favor of Paez.

Nevertheless, there are signs that the Paez vote may turn into a partisan issue. Senator Lott has told the White House that, while he will hold a Paez vote, he intends to try to defeat Paez on the grounds that Paez is an "activist." Senator Hatch, for his part, has indicated that he may also oppose Paez, notwithstanding his prior support. Hatch, too, has claimed that Paez is an "activist."

The accusations against Judge Paez are wholly unfounded. The first Mexican American ever to serve as a federal district judge in Los Angeles, Paez has almost two decades of judicial experience. He is a well-respected, experienced jurist who has bi-partisan support and the support of the local law enforcement community. Notably, Paez enjoys the endorsement of the United States Hispanic Chamber of Commerce, notwithstanding spurious allegations that he is somehow "anti-business." Representative James Rogan, who was a colleague of Paez on the state bench, is a strong supporter.

Handwritten notes:
- Attached to letter
- As case held up
- Childress that out
- Paez's nomination is leaving
- Sorry Clinton is leaving



*copied
Nolan
Childress
Podesta*

*Recommended
Telephone Call to
Senator Hatch Re
Ninth Circuit
Nominee Judge
Richard Paez*

- Dan Bennett -



2-22-00

Judge Paez's qualifications are indisputable; he received the highest rating of the American Bar Association. The attorney evaluations appearing in the most recent *Almanac of the Federal Judiciary* are superlative. In January, the *Los Angeles Daily Journal* performed an in-depth analysis of Judge Paez's record, concluding that Paez is a "thoughtful, unbiased, and even-tempered judge." Fifteen legal experts consulted by the *Daily Journal* reviewed Paez's decisions. Thirteen praised Paez's rulings as "well-reasoned and well-written"; just two were critical of individual rulings.

As Chair of the Judiciary Committee, Hatch is, of course, highly influential on judge matters. In our view, if Hatch supports Paez, Paez is likely to be confirmed. If Hatch remains silent up until the vote, we have a slim chance that we can convince six other Republican Senators to support Paez. If Hatch begins to actively campaign against Paez, Paez will certainly be defeated. This phone call is therefore critical. Hatch has told us that he is leaning against Paez, but that he has not yet lobbied other Republicans against him.

As you are well aware, our history with Hatch regarding judges is mixed. Hatch has frequently supported our candidates, even those opposed by other members of his Committee. His votes in favor of Paez at the Committee level are an example of just that perspective; at the July 1999 Judiciary Committee vote, Hatch and Specter were the only Republicans to vote in favor of Paez. On the other hand, our most recent experience with Judge Ronnie White is deeply troubling. Hatch voted for Judge White in Committee, only to vote against him on the Senate floor. Hatch has claimed to us that Ashcroft and Bond's defection with respect to White took him by surprise and that, with the opposition of two home state Senators, he had no choice but to vote against White. These circumstances are not present here: we have substantial foreknowledge of the Paez vote and Paez, of course, has the enthusiastic backing of both of his home state Senators.

It is possible that Hatch will attempt to raise two recent vacancies in Utah, one on the district court and one on the circuit court. We have not made any decisions regarding these vacancies, although we have been vetting two good candidates. We have been waiting to see how Hatch conducts himself with respect to judges in general – and Paez in particular – before determining how to proceed with these vacancies. If Hatch raises the matter, we recommend that you be non-committal, while reminding Hatch of

5-22-00

the difficulty of the Stewart nomination and the importance of the Paez vote.

- TOPICS OF DISCUSSION:
1. I am calling to ask for your support for Ninth Circuit judicial nominee Judge Richard Paez. Let me reiterate my thanks for your sense of fairness while chairing the Judiciary Committee. In the past, you have shown courage in voting to confirm candidates who have been opposed by some of your Republican colleagues. I certainly have noticed – and appreciate – your integrity in these matters.
 2. As for Judge Paez, as you know, he has been waiting for more than four years to receive a vote – longer than any judicial candidate in modern history. The Majority Leader has agreed to schedule a floor vote for Judge Paez by March 15, 2000. **I know that you have voted favorably for Judge Paez at the Committee level. I would greatly appreciate your continued support.**
 3. As you know, Paez is a Brigham Young graduate who has family ties to Utah. The first Mexican American ever to serve as a federal district judge in Los Angeles, Paez is a well respected, experienced jurist who has bi-partisan support in California. Importantly, he has the support of the law enforcement community in Los Angeles. Paez received the ABA's highest rating – he is eminently qualified for the position. He also has the enthusiastic support of his two home state Senators.
 4. I am calling to ask you for your continued support for Judge Paez and to make sure that you understand how personally important this vote is to me.
 5. As you probably recall, I was profoundly disappointed by Judge Ronnie White's defeat last year. I know you were unhappy about the Ronnie White vote as well. I am told, however, that, in the case of Judge White, you were strongly affected by the opposition of Judge White's two home state Senators. The circumstances here are far different: as you know, Judge Paez has the enthusiastic support of both of his home Senators. In addition, unlike the Ronnie White vote, we have plenty of foreknowledge about this vote: you should understand how important this vote is to me.

THE PRESIDENT HAS SEEN

2.22.00

6. I realize that you have already reviewed Judge Paez's background and qualifications at the Committee level. I wanted to make you aware of an in-depth review of Judge Paez conducted by the Los Angeles Daily Journal in January 2000. This legal journal reviewed Paez's reputation and opinions because he has been labeled an "activist" by some. However, the legal journal found Paez to be a "thoughtful, unbiased, and even-tempered judge." Fifteen legal experts consulted by the Daily Journal reviewed Paez's decisions. Thirteen praised Paez's rulings as "well-reasoned and well-written"; just two were critical of individual rulings. If you would like, my staff can provide you with this article and other materials. I would ask that you review these materials personally before you decide on how to vote on Judge Paez's confirmation.

[If Senator Hatch raises either the district court or circuit court vacancies in Utah, you can add the following:

7. Naturally, I understand your focus on Utah vacancies. I will consider any names you pass along to me. You should understand, however, that we were hit hard with the Stewart nomination. In any event, I have not yet made any decision regarding how to proceed on either the district court or 10th Circuit Utah vacancy.]

CONTACT PERSON AND

TELEPHONE NUMBER(S): Patricia Knight, Chief of Staff, 224-6333

Ruth Montoya, Scheduler, 224-5251

DATE OF SUBMISSION: February 21, 2000

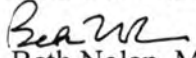
ACTION:

THE WHITE HOUSE
WASHINGTON

00 FEB 21 PM 3:37

February 18, 2000

MEMORANDUM TO THE PRESIDENT (via John Podesta)

From: 
Beth Nolan, Mark Childress, Sarah Wilson, and Eric Angel

Subject: Ninth Circuit Nominee Judge Richard Paez

As you know, there is likely to be a Senate floor vote on Judge Paez's candidacy some time during the next several weeks. You have already made very useful calls to Senator Jeffords and Senator Chafee asking for their support for Paez. In the coming days, we will be sending additional call sheets in to you regarding Judge Paez. In some of these call sheets, we will reference a January 2000 *Los Angeles Daily Journal* special report regarding Judge Paez. We are attaching this article for your information. Fifteen legal experts consulted by the *Daily Journal* reviewed Paez's decisions. Thirteen praised Paez's rulings as well-reasoned and well-written; just two were critical of individual rulings.

As you will see, the report – titled “*No Advice, No Consent: Criticism of Paez's 9th Circuit Nomination Proves Unfounded*” – reflects an in-depth analysis of Judge Paez's background and record. You may wish to review the first page of the article in which the *Daily Journal* concludes that Paez is a “thoughtful, unbiased, and even-tempered judge” who is a “no nonsense, middle-of-the-road” jurist. Overall the piece is very favorable, and is being widely distributed in connection with our efforts on behalf of Judge Paez.

In addition, in some of the call sheets we reference Judge Paez's most recent evaluation from the *Almanac of the Federal Judiciary*. The *Almanac* selection is attached. As you will see, the evaluations from the attorneys are overwhelmingly positive.

Richard A. Paez

District Judge; California, Central
760 Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012
(213) 894-0764

Born 1947; appointed in 1994 by President Clinton

Education Brigham Young Univ., B.A., 1969; Univ. of California at Berkeley, Boalt Hall, J.D., 1972

Previous Judicial Positions Judge, Los Angeles Municipal Court, 1981-94

Other Employment Staff Attorney, California Rural Legal Assistance, Delano, Calif., 1972-74; Staff Attorney, Western Center on Law and Poverty, 1974-76; Senior Counsel, Director of Litigation, Acting Executive Director and Director of Litigation, Legal Aid Foundation of Los Angeles, 1976-81

Professional Associations California State Bar Assn.; Los Angeles County Bar Assn.; Mexican-American Bar Assn. of Los Angeles County; California Judicial Council

Other Activities Hollywood-Los Feliz Jewish Community Center; Public Counsel

Lawyers' Evaluation Lawyers raved about Paez's legal skills. "He is a wonderful judge." "He's just an incredible addition to the bench. He's one of the few federal judges who came straight from municipal court." "He's outstanding. He rates a 12 or 13 on a scale of one to 10. He's brilliant—but still useful. Some judges are too scholarly, but Judge Paez is still real." "He is highly competent." "He's got a great future ahead of him." "He's one of the smartest people on the bench. He's thoughtful and reflective. There's a very good buzz about him." "He's really smart." "I don't know anyone here who hasn't been exceedingly impressed by him. He does a great job." "He has an outstanding level of ability." "He has come into his own very quickly. He's really doing a good job."

Lawyers reported that Paez has an excellent judicial temperament. "He was well-known to the bar because of his prior experience in state court. He has always been very pleasant to appear before." "I think he has a great temperament. He never says or does anything that's off." "He has a very good demeanor. He's very professional. He doesn't have any quirks." "He's very good in the courtroom. He's courteous to everyone." "He's nice, very congenial. He's making a very good judge."

Lawyers said that Paez is well-prepared and runs a good courtroom. "I love to go into his courtroom." "He's a lawyer's judge. He has a lot of experience, and he does an absolutely fantastic job." "Judge Paez does a great job in court. He doesn't interject himself too much, but he maintains firm control." "He really knows his cases. Lawyers have to be very well-prepared on everything. I think he delights in the intellectual aspect of it all." "He's very well-prepared. He knows more about a case than the lawyers will."

Lawyers said that Paez is not overly forceful with respect to settlement. "He doesn't push settlement." "I've never had an experience with him where he really pursued it." "I think he leaves it up to the magistrates." "He

doesn't push settlement." "He's not coercive about it. If the parties want to settle, fine. He's ready to try a case."

Plaintiffs' attorneys said that Paez is fair. "He's a very good draw. He gives plaintiffs their day in court, but I wouldn't say that he's plaintiff-oriented. He respects the process." "He's very fair." "He has a real sense of justice. He's never shown any predisposition toward either side." "Defense lawyers say that he's plaintiff-oriented, but I don't think it's true."

Defense attorneys said that Paez is neutral-to-plaintiff-oriented. "He's pretty even." "He doesn't have a mind set to speak of." "He's a little plaintiff-oriented, but he's fair in the end." "It's tough for defendants, especially in employment discrimination or civil rights cases. He's O.K. in straight commercial litigation." "I think he's fair, but I wouldn't say that there's any doubt that Judge Paez is trying to help out the little guy." "I think he's very wary of big business and insurance companies, but I think they get a fair trial." "He's considered liberal, but I think he's very good. He has his own mind set, but he gets to the right result."

Criminal defense attorneys said that Paez is evenhanded. "He's not prosecution- or defendant-oriented." "He's straight down the line." "He's reasonable on white-collar crime. He's a good, fair man."

Lawyers said Paez is fair on sentencing. "He tries to find a fair sentence." "He's a little petty on sentencing. He requires rationalizations for everything, whether you're ratcheting up or down. It can drive lawyers a little nuts, but I guess it's fair in the end. There's no rounding off with him."

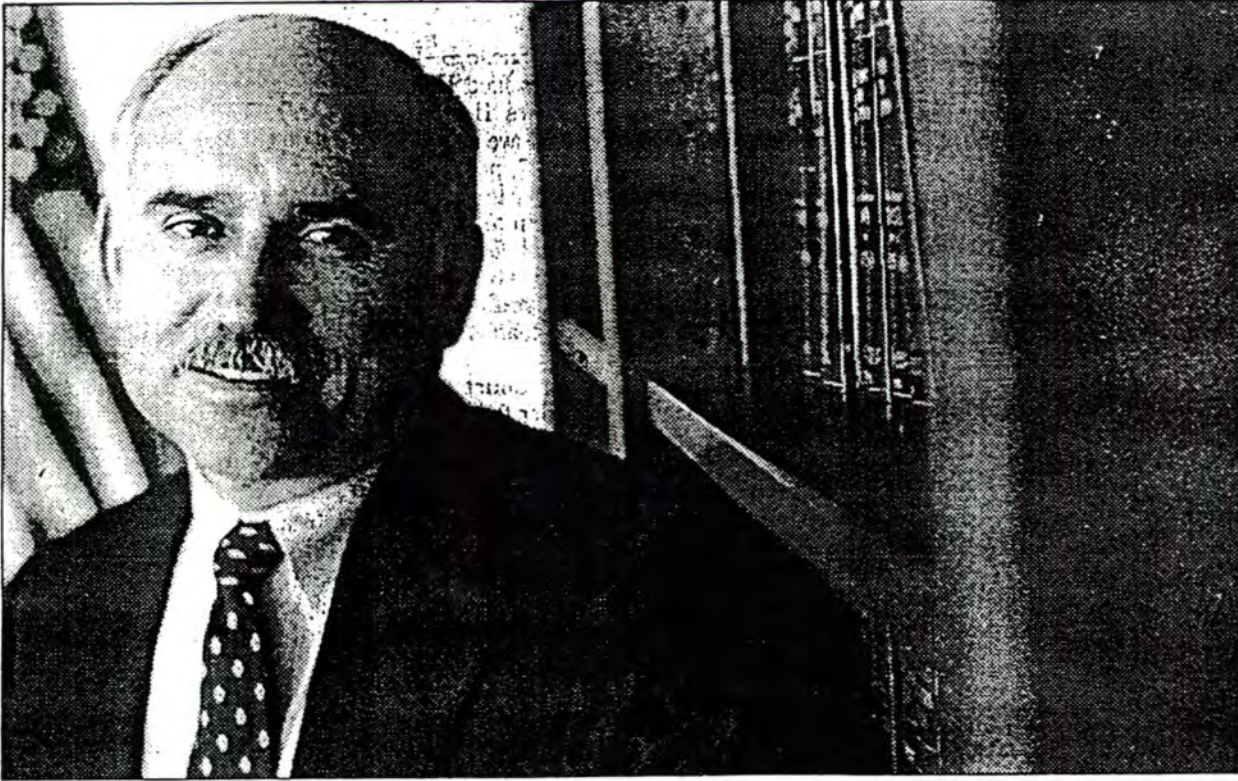
Miscellany In 1993, Paez supervised the institution of a civil trial court delay reduction project, which he said effected "a major change in the way the court calendars civil cases." In 1988, he assisted with implementation of a criminal trial delay reduction program. Since 1991, Paez has been appointed twice by the chief justice of the California Supreme Court to serve as a member of the California Judicial Council, the policy-making body for the California judiciary, where he has supported such court reform measures as trial court delay reduction programs and unification and consolidation of the trial courts. *Inside Litigation*, May, 1994.

LOS ANGELES

Daily Journal

TUESDAY,
JANUARY 18, 2000

Special Report



HUGH WILLIAMS / Daily Journal

ALL IN GOOD TIME — Richard A. Paez's nomination has been praised by both prominent Democrats and

influential Republicans, as well as Hispanic leaders and key law-enforcement officials.

No Advice, No Consent

Criticism of Paez's 9th Circuit Nomination Proves Unfounded

By Martin Berg

Daily Journal Staff Writer

In six years, Richard A. Paez has gone from the peak of being the first Mexican-American appointed to the U.S. District Court in Los Angeles to political purgatory — waiting longer than anyone in the past 100 years to have his appeals court nomination voted up or down by the U.S. Senate.

Paez, 52, had been on the federal bench only two years when President Clinton nominated him to the 9th U.S. Circuit Court of Appeals on Jan. 25, 1996. The selection was welcomed by a broad cross-section of leaders, including Hispanics, key law-enforcement officials and influential Republicans. Since then, he has seen his nomination voted out of the Senate Judiciary Committee three times.

But so far the full senate has failed even to afford Paez a vote, neglecting its constitutional duty to "advise and consent" on presidential nominations. To explore Paez's record and his descent into the netherworld of Senate politics, the Daily Journal launched a lengthy inquiry, talking to lawyers, Paez's colleagues and politicians from Los Angeles to Washington. To provide expert analysis, we enlisted law professors and lawyers, who provided their assessment of legal rulings Paez wrote over the past two decades.

The portrait that emerged is of a thoughtful, unbiased and even-tempered judge, propelled into the political spotlight, only to be trapped in a seemingly never-ending and bitterly polarized nomination process.

Backers of Paez — as well as President Clinton — link his troubled nomination to an alleged pattern of racism in the judicial selection process, pointing to the small number of blacks, Latinos and Asian-Americans on the federal judiciary. Others point to the taint of the 9th Circuit, which con-

By Fits and Starts

Here's how the nomination process has staggered along for four years:

104TH CONGRESS

- Jan. 25, 1996 — President Clinton nominates Paez to the 9th Circuit.
- July 31, 1996 — The Judiciary Committee approved Paez's nomination.
- Oct. 6, 1996 — The Senate having taken no action, Paez's nomination is returned to President Clinton.

105TH CONGRESS

- Jan. 7, 1997 — President Clinton renominates Paez.
- March 1, 1998 — The Judiciary Committee again approved Paez's nomination.
- Oct. 21, 1998 — The Senate still takes no action and Paez's nomination again returns to President Clinton.

106TH CONGRESS

- Jan. 26, 1999 — President Clinton nominates Paez for a third time.
- July 21, 1999 — The Judiciary Committee again approves Paez's nomination, and it goes to the full Senate.

Source: Sen. Dianne Feinstein's office

Inside

Dissecting the Rulings: Legal experts give thumbs up — or down — to Judge Richard Paez's written rulings during his nearly 20 years on the bench.

Page 8.

servative critics call too liberal.

Republicans have consistently given most Clinton judicial nominations a hard time — even a solidly uncontroversial member of the California legal establishment such as Margaret Morrow, who finally won confirmation to U.S. District Court after fighting off characterizations of herself as an irresponsible liberal.

None, though, has waited longer than Paez, the one-time public interest lawyer who emerged as a no-nonsense, middle-of-the-road judge. Most troubling, perhaps, is the fact that most legal experts praise his rulings as well-reasoned. Of the 15 legal experts who examined Paez's rulings for the Daily Journal, 13 praised them, using descriptions such as "clear, concise and straightforward," "carefully thoughtout," "clearly written and carefully reasoned," and "scholarly and thorough."

Two who reviewed Paez's decisions found evidence of judicial activism — one of the key criticisms leveled at the judge by his conservative critics. One found an international law ruling "wide of the mark," while another found a free speech ruling "to say the least, judicially active, and in that, highly troubling."

The Senate Judiciary Committee, on the other hand, has only flirted with an examination of Paez's record, instead largely relying on comments by fans and foes of the judge. Members of the committee have received letters of support for Paez from across the political and legal spectrum — Democrats, civil rights groups such as the National Council of La Raza, law-enforcement officials such as Los Angeles District Attorney Gil Garcetti and the late county

Sheriff Sherman Block, law-enforcement groups, judges, bar association leaders — including the business-oriented Association of Business Trial Lawyers — and several

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Paez's Critics Motivated by Politics, Not Record

Continued from Page 1

ominent Republicans.

In one unusual joint letter, two lawyers opposing sides in a dispute between insurance companies wrote the Judiciary Committee in support of Paez. "He was fair to both sides, considered and stated our arguments and promptly came to decisions," wrote Richard Burge of Dewey Ballantine and Steven A. Erick of Orrick, Herrington & Sutcliffe. He also was able to articulate his decision clearly and concisely. That type of performance has justly earned him the respect of the commercial bar."

Among the noted Republicans backing Paez has been Sheldon Sloan, who was on the Los Angeles Municipal court bench with Paez. After Sloan quit the bench, he became a county bar president and a well-connected Republican, with ties to key party members on the state and national levels. Among his roles was serving as a key advisor to Governor Pete Wilson on judicial appointments.

Paez "was there [on the municipal court] for a long time, and he had the opportunity to be a mischief maker" by criticizing Republicans, Sloan recalled. He could have been mean, and outspoken and controversial — but he wasn't."

Though Sloan has strongly supported Paez, he has so far been unable to move his fellow Republicans in the Senate. Another Paez supporter is the staunchly conservative Rep. James Rogan, R-Glenale, most recently known for his fervent support of Independent Counsel Kenneth Starr.

Rogan did not return telephone calls seeking comment. But in a May 1988 letter to Sen. Orrin Hatch, R-Utah, chairman of the Senate Judiciary Committee, Rogan — also a former colleague of Paez on the municipal court bench — cited the judge's "many fine qualities and impressive credentials. His character and integrity have never been questioned. He is an accomplished attorney and a respected jurist."

Despite such broad support, Paez has drawn stolid opposition — enough to delay his nomination. His foes see in his handling of hot-button issues — such as abortion rights and corporate responsibility for human rights — a dangerous judicial activist, whose rulings and extra-judicial comments disqualify him from promotion. Adding fuel to the fire have been remarks Paez made about anti-immigrant initiatives in California — which his critics label inappropriate extra-judicial commentary.

Among those who have criticized Paez are a conservative lobbying group, the Washington, D.C.-based Free Congress Foundation's Judicial Selection Monitoring Project. Its letter was joined by state and national groups, including Accuracy in Media Inc., the Christian Coalition, Christian Legal Defense, and Capitol Hill Prayer Alert.

But the critics have come up with only a few examples of Paez's alleged misdeeds, according to the judge's backers — and have grossly distorted his record.

"All of the characterizations, in terms of labeling him a liberal, or an activist, or someone who doesn't follow the law are completely inaccurate," said Marisa Demeo, regional counsel for the Mexican-American Legal Defense and Educational Fund. "If these accusations were true, they would have more to point to than just a very few examples. They are really grasping at things."

Critics say it's the seriousness of the concerns over Paez, not their quantity, that require scrutiny.

Alex Acosta, director of the Project on the Judiciary at the Ethics and Public Policy Center, a Washington, D.C., think tank, said that Paez is insensitive to the 14th Amendment. "If you had a judge who had given a speech expressing hostility to *Brown v. Board of Education*, wouldn't that be enough by itself to disqualify him from consideration for a seat on an appellate court?"

The critics, too, have looked at his record, focusing in on several misdemeanor trespassing cases against anti-abortion protesters at Los Angeles clinics. Paez presided over the 1989 trials, during which the protesters, including Operation Rescue leader Randall Terry, sought to make abortion, rather than trespassing, the issue. Terry and the others were acquitted.

In a July 27, 1999, letter to the Judiciary Committee, the Free Congress Foundation claimed Paez "stormed off the bench during a trial after warning the defendant not to consult the Bible and actually threatening to confiscate it." The group cited a Los Angeles Times article to substantiate their claim.

The prosecutor, Deputy City Attorney Lara Bloomquist, denied that Paez stormed off the bench.

"Judge Paez was actually very restrained," Bloomquist recalled in a recent interview. "The defendants continuously waved their Bibles in front of the jury in an attempt to influence them, and Judge Paez repeatedly instructed them not to. He finally told them that if they continued, he would halt the trial. They continued, so he sent the jury out of the courtroom and left the bench. But he did not storm off the bench."

The brief August 23, 1989 newspaper article cited by the Free Congress Foundation does indeed describe Paez storming off the bench — after the judge "banished" the jury — and "after an anti-abortion crusader [Terry] persisted in asking an abortion clinic official on the witness stand about killing children and whether he believed in God."

Several paragraphs below, it merely states he left the bench.

According to the newspaper account, Paez resumed court five minutes later, screened Terry's questions and disallowed all of them.

Judicial temperament was not the focus of Judiciary Committee hearings on Paez, however. Conservative senators focused instead on remarks Paez made to students at a Boalt Hall gathering in April 1995 concerning two controversial state ballot initiatives, Propositions 187, which denied benefits to illegal immigrants and 209, which barred certain affirmative action preferences. Paez referred to the ballot initiatives as "divisive" and labeled 209, which limited affirmative action programs, as an "anti-civil rights initiative."

Facing tough criticism from Republican Sens. Jeff Sessions of Alabama and John Ashcroft of Missouri, Paez said in the hearing, "I regret I used those words. I think mainly what I was trying to reflect was a frustration and concern because it [209] had fallen on the heels of 187, which raised a lot of debate. Sometimes these initiatives tend to be somewhat divisive. ... And I think I was just reflecting that these matters can be disruptive. ... It's not anti-civil rights. It's [designed] to ensure equal opportunity."

The president of the National Council of La Raza, however, disagreed that Paez offered inappropriate judgment on the measures. "We find nothing in his statements that even remotely resembles any opinion or judgment on the legal questions regarding Proposition 187 or 209 that have or could have come before the court," Raul Yzaguirre wrote to a Judiciary Committee member.

Instead, the point of Paez's comments, was that the public debate on the initiatives was divisive. Yzaguirre also asserted that Paez's "cursory and rather innocent remarks" pale in comparison to

remarks made by other judges — such as Chief U.S. Supreme Court Justice William Rehnquist, who has called for faster action on judicial appointments; 9th U.S. Circuit Court of Appeals Justice Alex Kozinski, who in the *New Yorker* described his difficulty sleeping after sending his first death-row inmate to his execution; and Supreme Court Justice Antonin Scalia, who gave a speech in which he said it is "absolutely plain there is no right to die."

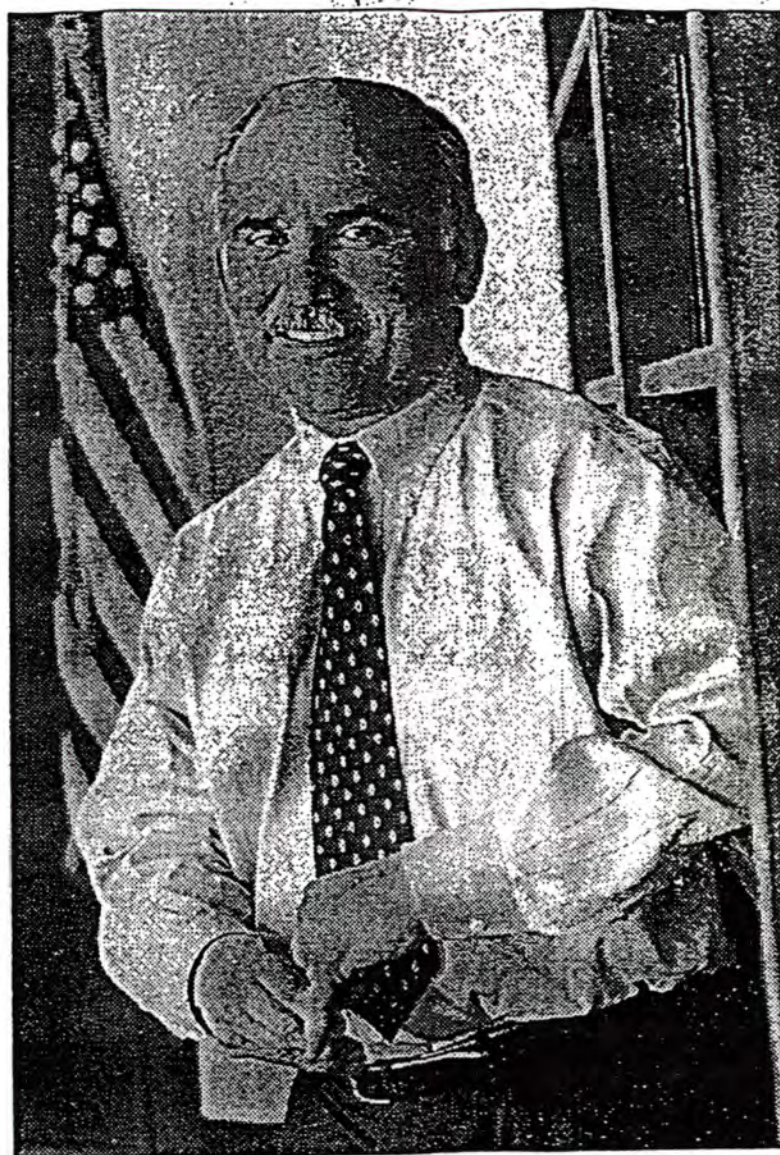
Though Rehnquist, Kozinski and Scalia's statements were all criticized, Yzaguirre pointed out, no one suggested that Rehnquist or Scalia be recused from hearing cases on the topics they discussed, or that Kozinski should not be considered for elevation to a higher court on the basis of his controversial article.

One Paez supporter acknowledged, however, that the judge's remarks on the initiatives gave ammunition to his conservative critics — who have attacked even less controversial figures in the confirmation process.

In another letter to the Senate Judiciary Committee, critics from the Free Congress Foundation cited the judge's handling of *Doe v. Unocal*, 963 F.Supp. 880 (1997) to support their case that he

is an activist judge. In that case, Paez refused a motion to dismiss a lawsuit brought by Burmese nationals seeking to hold Unocal Corp. financially responsible for abuses of the Burmese government, contending that the company benefited from the government's forced labor policies, as well as other abuses, in a pipeline project in that country.

The case was also one of those analyzed for the *Daily Journal*. Among several legal experts who reviewed the opinion, two law professors found the opinion legally sound, based on solid precedent. One of the professors, Lee Boyd of UCLA Law School, stated that the ruling was in many ways, pro-defense [Unocal], making it more difficult for the plaintiffs to proceed in the case.



HUGH WILLIAMS / Daily Journal

RICHARD A. PAEZ — "I am, to a considerable extent, a product of my active involvement with the church, including my years at Brigham Young University."

A Career In Poverty Law

Born: May 5, 1947, in Salt Lake City, Utah

Undergraduate: Brigham Young University, June 1969

Law school: University of California at Berkeley (Boalt Hall), June 1972

Career: Staff attorney, California Rural Legal Assistance, 1972-1974; staff attorney, Western Center for Law and Poverty, 1974-1976; senior counsel, Legal Aid Foundation of Los Angeles, 1976-1978; judge, Los Angeles Municipal Court, 1981-1988; presiding judge, Los Angeles Municipal Court, 1988-1994; judge, U.S. District Court; 1994-present.

But a veteran attorney who has represented oil companies concluded that the opinion refusing to dismiss the case "strays seriously off the mark." And a lawyer for Unocal, Edwin Woodsome of Howrey and Simon, declined comment on the case, which is still pending before Paez. But he praised the judge, calling him "a superb jurist."

Peter Schey, of the Center for Human Rights and Constitutional Law, and a plaintiffs' attorney in the Unocal case, said: "I think he's [Paez] bent over back-

wards to comply with every law that blocks the plaintiffs' access to the courts. He's been very conservative of the reading of the limited laws which provide such access. He's shown no favoritism to either side. The laws which allow jurisdiction [by U.S. courts over Unocal's actions in Burma] may not be as well established as Miranda rights, but he's used very well-established precedents."

Paez declined a request for an interview for this article, citing the on-going nomination process. Those close to him, however, know of the toll the process has taken. In October, Sen. Dianne Feinstein, D-Calif., said Paez described the "interminable nomination process as a 'cloud' hanging over his head. Litigants in his courtroom constantly query him if the case is going to be continued, if his case is going to be assigned to someone else, or if Judge Paez is going to keep it. No nominee should have to face this uncertainty. His family has been thrust into the public limelight, and for four years every action he has taken has been subject to microscopic scrutiny."

Prior to his nomination to the 9th Circuit, Paez was interviewed by the Daily Journal — providing insight into the person critics contend is a judicial activist with a questionable temperament.

At that time, Paez said "you could characterize my background as liberal." He is a 1972 graduate of University of California at Berkeley's Boalt Hall Law School, a former public interest lawyer and a former municipal court judge appointed by Gov. Jerry Brown.

Paez also cites another strong influence, his traditional Mormon upbringing. And, though his family moved from Salt Lake City to Southern California when Paez was 9, he returned to Brigham Young University for college, graduating in 1969.

"I'm one of the church's products," Paez told the Daily Journal. "You're a product of many things. One is a product of his environment and his family and everything else, and I am, to a considerable extent, a product of my active involvement with the church, including my years at Brigham Young University."

After law school, Paez, a Democrat, worked with several public interest firms, first with California Rural Legal Assistance in Delano, then with the Legal Aid Foundation of Los Angeles and as litigation director for the Western Center on Law and Poverty in Los Angeles.

In 1981, Brown appointed him to the municipal court. He remained there for 13 years after the state's politics shifted rightward. In March 1994, Clinton appointed him to the U.S. District Court, and he sailed through the confirmation process several months later.

During his 13-year tenure on the municipal court bench, including a year as presiding judge of the Los Angeles Municipal Court, he met some of his long-standing friends and staunchest allies. Superior Court Judge Ed Ferns was a freshly appointed municipal court judge in July 1989, with the courtroom next door to Paez. It was Paez who helped show Ferns the basics.

"I remember I walked into his courtroom on a Friday afternoon," Ferns said in an interview. "It was packed. He was the supervising judge of Municipal Court — and he was doing small claims court. That's the kind of person he is: He does what's expected of him — and more so."

Some backers of Paez were heartened by statements the Senate's majority leader, Trent Lott, R-Mississippi, made in November, saying he would move the nominations of Paez and several other judicial candidates to a vote by March 15, 2000. If others attempted to filibuster to block the vote, Lott said he would file cloture, to end the filibuster.

Other veterans of Senate politics and the judicial nomination process are not so sanguine. Speaking on condition of anonymity, they point out that Paez has been assured of a full Senate vote before — only to be disappointed when the vote never took place. In addition, Howard Gantman, a spokesman for Feinstein, notes that even if Lott files for cloture, 60 votes are required to end a filibuster, and Democrats may not have the votes.

Why have Republicans been reluctant to bring Paez to a vote? Because, some sources say, Paez's conservative critics are afraid that Republicans may not have the votes to block Paez's nomination. A simple majority could confirm him, and his backers contend more than 50 senators would vote for him — if they ever got the chance.

If the long nomination process has rattled Paez, he doesn't show it in court. There, his demeanor remains what it has been in his seventh-floor courtroom in the Roybal Federal Building — low-key and no-nonsense.

His friend Ferns said Paez has continued to focus on the things he has always focused on before he became a perpetual nominee. "He doesn't talk about it [the confirmation process]," Ferns said. "Basically, he just goes forward and does the work. I don't ask him about it, and he doesn't talk about it. We talk about cases, family. He's got a daughter who's 15, who plays soccer and water polo, and a son in fourth grade. I don't think he's got a hobby. His focus is on his family."

Another source, speaking on condition of anonymity, said Paez has expressed a different view to him. "He's frustrated," the source said. "He's disappointed that it's turned into this ordeal."

Paez, for his part, is likely to attract more media attention for his work on the bench. He is presiding over the high-profile case against Buford Furrow, the alleged white supremacist, who could face the death penalty in the shooting death of a postal worker and the wounding of several others, including children, in a separate shooting incident at a Jewish community center in suburban Los Angeles.

Recently, Paez presided over a handful of high-profile cases, including tax charges against Maria Hsia and campaign fund-raising charges against John Huang — both connected to the Democratic Party fund-raising scandals. Prosecutors dropped charges against Hsia after a jury deadlocked on the tax charges against her.

In the Huang case, however, Paez reportedly irked a conservative congressman investigating campaign fund-raising. Rep. Dan Burton, D-Ind., wanted the judge to hold off sentencing Huang until Huang testified before Congress, said Huang's defense attorney, Ty Cobb of Hogan & Hartson in Washington, D.C.

Cobb insisted Paez handled the case appropriately. The judge held off accepting a plea agreement Huang and prosecutors had hammered out, requesting a detailed report from Pretrial Services. Paez then sentenced Huang to a year's probation, a \$10,000 fine and 500 hours of community service.

Cobb said that Paez notified both sides that he had received a request from Burton's staff that Huang's sentence be postponed. If anything, Cobb said, Paez could have felt pressure to accede to a conservative congressman's request — to appease his conservative critics.

"If he [the judge] was under any pressure, he deserves credit for doing the right thing," Cobb said.

Neither Burton nor his staff returned telephone calls seeking comment.

Paez's Opinions Praised as Well-Reasoned

The Daily Journal reviewed a wide variety of rulings U.S. District Judge Richard Paez made during his career on the bench, seeking those that would most show his abilities for the job for which he has been nominated — justice of the 9th U.S. Circuit Court of Appeals. Ultimately, seven rulings were selected; each case was analyzed by at least two experts.

Three of the rulings stirred controversy in the confirmation process, while the four others were chosen because they reflect the everyday workload of a federal judge. The rulings include a variety of subject matters — international law, securities fraud, constitutional law, employment law — and a criminal law ruling Paez made while he sat by designation on a state appeals court in 1983.

The Daily Journal called several dozen law professors and lawyers to enlist their help in the project, seeking a balance between liberals and conservatives, as well as those with expertise in the specific areas of law. Fifteen experts, all based in Southern California, eventually participated, representing a range of experience and political perspectives.

We identified cases from a variety of sources — those highlighted in Paez's nomination process, as well as those appearing in news accounts or simply in the judge's court calendars. We selected cases available through legal databases for ease of access.

What follows is the analyses of those cases by eight lawyers and five law professors.

All thirteen of those legal experts praised Paez's rulings as well-reasoned and well-written. Two criticized the individual rulings they reviewed, one for Paez taking a "judicially active" approach and the other for a case in which the commentator believed the judge "strayed seriously off the mark".

The cases are listed in alphabetical order. Each is preceded by a summary of the decision written by one of the Daily Journal's staff of professional rulings briefers.

■ *Carter v. Municipal Court*, 149 Cal.App.3d 84 (1983)

Barbara Carter was convicted in 1977 and 1981 for drunken driving under former Vehicle Code Section 23102(a). She was convicted a third time for drunken driving in 1982 under

Vehicle Code Section 23152. The Municipal Court used Carter's prior drunken-driving convictions to enhance her punishment for the 1982 offense under Vehicle Code Sections 23165 and 23170. Carter petitioned for a writ of prohibition to prevent the court from using her pre-1982 convictions at sentencing for the 1982 conviction. The Superior Court denied the petition.

Affirmed. At issue was whether Vehicle Code Sections 23165 and 23170, when applied to pre-1982 convictions under former Vehicle Code Section 23102, constituted an ex-post-facto law. Former Section 23102(a) was in effect at the time of Carter's 1977 and 1981 offenses, and Section 23152(a) was in effect at the time of the 1982 offense. Sections 23165 and 23170 did not increase the punishment for the prior convictions. The 1977 and 1981 convictions were merely factors the court was to consider in determining the sentence for the 1982 conviction. Therefore, Sections 23165 and 23170 had no ex-post-facto effect, because they did not increase the punishment for prior convictions.

Robert Pugsley

Sitting by assignment on a three-justice panel of the 2nd District Court of Appeal, Judge Paez wrote a unanimous opinion in *Carter*.

The case raised two issues on appeal. Specifically, the defendant-appellant charged the Municipal Court with applying, ex post facto, amended Vehicle Code sections to enhance her 1982 sentence by taking into consideration her two prior convictions. Second, she claimed lack of warning at the time of her 1981 conviction that, pursuant to amended Vehicle Code sections, any future sentences for conviction on the same DUI offense could be enhanced by reference to her two priors.

Judge Paez distinguished then-recent case law and amendments to the Code of Civil Procedure that could have potentially blocked appellate argument on the merits. In a passage supported by sound legal reasoning, and not judicial overreaching, the judge wrote: "In our view the issues raised by appellant are important to the efficient and uniform implementation of the 1982 revisions in drunk driving laws. Thus, whether we treat this matter as an appeal or petition for extraordinary relief we find it appropriate to reach the issues raised by appellant." *Carter*, 149 Cal.App.3d at 187.

Beyond this key determination, Judge Paez did not go further in using the opinion to elaborate upon the public-policy rationale for recidivist DUI sentencing enhancement. Rather, he

judicially demonstrated the policy-based amendments to the Vehicle Code by accurately applying them to the case before him.

The opinion is clear, concise, straightforward, logical and provides no indication of the author's personal policy predilections on the issue. It is tightly written, not expansive, and expressed in unemotional expository prose.

Its roots are firmly in the positivist tradition of modern criminal law interpretation informed by and deferential to the legislative prerogative (short of constitutional defect) and implicitly respectful of the separation of the powers among the branches of government.

By itself, *Carter* was a modest case. But in hindsight its importance resides in affording a window into Judge Paez's judicial approach and style.

Alex Riccardulli

Judge Paez's opinion in *Carter* both showed judicial restraint and accurately foreshadowed the development of an important area of criminal law and procedure.

In handling one of the defendant's arguments — that her prior conviction should not be used to increase the punishment in her present case — Judge Paez demonstrated his knowledge that what the Constitution requires and what might be practically desirable are not always the same thing.

The trial court, in the defendant's prior case, had failed to advise her when she pleaded guilty that her conviction could be used to increase her sentence if she re-offended. The defendant thus argued that the use of the prior conviction to enhance her present case should be barred by the constitutional mandate that a defendant be advised of the consequences of a plea.

CONT'D

Applying existing law, Judge Paez found that the constitution only called for advisement of direct consequences of guilty pleas, not collateral ones, such as the possible use of a conviction to increase future punishment. Judge Paez concluded, "While it is desirable that defendants be informed of the increased minimum sentence for future convictions of the same offense such advice is not required."

Carter was also a harbinger of the way courts would come to handle similar challenges to other types of prior convictions, including ones under the three-strikes law. A common attack to recidivist laws is that it would be unconstitutionally *ex post facto* to increase punishment with prior convictions that were committed before the date the law was enacted.

Judge Paez's opinion in *Carter* rejected such a challenge in the drunken-driving context. *Carter* then was cited as authority by a subsequent Court of Appeal opinion in holding that five-year priors alleged under Penal Code Section 667(a) could have been committed before Section 667 became law. *People v. Crosby*, 3 CalApp.4th 1352 (1992).

The principle in *Carter* that there is no *ex-post-facto* problem with such an application was most recently used to allow prior "strikes" to originate from offenses predating the enactment of the three-strikes law. See *People v. Hatcher*, 33 CalApp.4th 1526 (1995).

The wisdom and fairness of using prior convictions — some suffered years before a recidivist law was enacted — to increase punishment was a hot political issue at the time *Carter* was decided. It is even more so now, when the consequences of an old guilty plea can be as severe as 25 years to life in state prison. Judge Paez's opinion here correctly applied the law and did not betray its author's personal feelings on the issue.

■ *Doe v. Unocal Corp.*, 963 F. Supp. 880 (C.D. Cal. 1997)

Unocal Corp., an American oil company, entered into a joint venture with the Burmese government for construction of a gas pipeline in Burma. More than 10,000 Burmese citizens brought a class action against the Burmese government and Unocal alleging that the government engaged in human-rights violations, including forced labor, forced relocation, torture and rape, to further the pipeline. The citizens claimed that Unocal knew the Burmese government committed human rights abuses in connection with the pipeline and benefited from the practice. Unocal moved to dismiss the claim for lack of subject-matter jurisdiction, failure to

join a party and failure to state a claim upon which relief could be granted.

Granted in part, denied in part. First, the Burmese government was granted immunity by authority of the Foreign Sovereign Immunities Act. The alleged human-rights violations were not performed in connection with commercial activity in the United States. The events took place in Burma and did not directly affect the United States. However, Unocal was subject to jurisdiction under the Alien Tort Claims Act because the Burmese citizens alleged a tort in violation of international law.

Second, the Burmese government was not a necessary and indispensable party to the action. If the victims could show that Unocal was a joint tortfeasor with the Burmese government, complete compensatory relief could be granted with respect to claims for injunctive and declaratory relief sought by the victims, who wanted to preclude the oil company from making payments to the Burmese government.

Finally, the Burmese citizens pleaded sufficient facts to state a claim upon which relief could be granted. The citizens' allegations that Unocal and its officers knew or should have known about the practices of the Burmese government when Unocal invested in the pipeline was a sufficient statement of a claim worthy of relief.

Lee Boyd

The entire analysis has to be looked

at through the procedural posture of the case. A motion to dismiss requires the judge to accept all the plaintiffs' allegations as true. It's not a merits-based decision at all.

Judge Paez continually used judicial restraint, except in one area. The ruling went against the plaintiffs in all but that one area, and he made the case much more difficult for the plaintiffs to pursue. He denied injunctive relief and class certification, dismissed the government defendants and the French company, Total S.A., and denied the plaintiffs' discovery on the issue of jurisdiction.

The plaintiffs don't have a class, so, if they were to prevail, they could recover only damages for a few people. They don't have co-defendants to go after. It makes it pretty hard for the plaintiffs to put the pieces of the puzzle together. Unocal stands to lose so much less now than prior to the ruling on the defendants' motions to dismiss.

In many ways, it's an anti-plaintiff ruling.

The judge did not find that he had personal jurisdiction over the French company, Total, rejecting the plaintiffs' "national-contacts" analysis and aggregating all of Total's contact within the United States. Judge Paez went back to the traditional precedent, requiring contacts in the state in which the lawsuit was brought, which was very detrimental to the plaintiffs.

The judge did not find that he had jurisdiction over the government of Burma — even though he had 9th

Experts Say His Rulings Will Stand the Test of Time

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Circuit precedent to do so under *Siderman de Blake v. Republic of Argentina*, 965 F.2d 699 (1992).

In that case, the plaintiff argued that Argentina's confiscation of land in that country had a direct effect on the United States. In *Unocal*, the plaintiffs argued that Unocal lowered its costs for the Burmese pipeline by using forced labor and engaging in human-rights violations, and that had an effect on their business in the United States. The judge worked very hard to distinguish this case from *Siderman*.

Even in the application of the Alien Torts Claim Act to Unocal he was not out of bounds. Usually, only governments can be held liable for human-rights violations; but the courts have said that there are a few exceptions, such as in the case of slave labor and torture. Those are held to be such fundamental violations of human rights that a private party may be held liable for them. And the Alien Torts Claim Act is a very old law that was originally applied to private parties — pirates.

Remember, we're not talking about

whether there is evidence to support these allegations at this stage of the proceedings. The question is: Do the plaintiffs have a legal theory on which to proceed?

Matthew Heartney

Judge Paez's opinion in *Unocal* is, in many ways, a judicial tour de force that confronts a host of difficult and unsettled legal issues. Nonetheless, the opinion strays seriously off the mark.

Unocal arose out of claims by Burmese citizens that they had been subjected to atrocities by the ruling military junta in connection with an oil pipeline construction project being conducted by a joint venture between Unocal Corp., Total S.A. and the Burmese national oil company.

In particular, the plaintiffs alleged that the junta's military and police forces engaged in torture, rape, forced labor and intimidation in order to clear lands and provide other services needed for the pipeline project. According to the plaintiffs, Unocal — along with Total — "knew or should have known" of these atrocities and nevertheless continued to provide funding that subsidi-

dized the military and police activities.

No one could fail to condemn most strongly the conduct in which the Burmese military and police are alleged to have engaged. However, at the outset of his opinion, Judge Paez held, and correctly so, that these alleged atrocities constituted conduct by a foreign sovereign for which that government could not be held accountable in a U.S. court. The remaining question, and the one on which I find the *Unocal* opinion troubling, was whether the plaintiffs could properly assert claims, based on the alleged atrocities, against Unocal.

Both to establish the court's jurisdiction under 28 U.S.C. Section 1350, known as the Alien Tort Claims Act, and to state a claim for relief against Unocal, Judge Paez was required to find that the plaintiffs had alleged conduct on the part of Unocal itself that constituted a violation of international law. Not surprisingly, it is only in limited circumstances that a private party's conduct can constitute such a violation. Here, he concluded that the plaintiffs had adequately alleged Unocal's violation of international law on either of two theories.

First, Judge Paez held that Unocal could, in effect, be held liable for violations of international law committed by the Burmese military and police because Unocal was a "joint venturer" with the Burmese government in the pipeline project and because the military and police allegedly were Unocal's "agents" in conducting that project. This surely cannot be correct. To hold a U.S. company liable for torture, rape and other atrocities on the part of foreign military and police merely because that company is engaged in a joint-venture project with a government-owned oil company would subject U.S. businesses operating abroad to potential liability for acts that they cannot possibly control. Simply put, there exists no basis in the law to impose liability on U.S. companies or citizens for "vicarious" violations of international law.

Second, Judge Paez held that the plaintiffs had sufficiently alleged that Unocal "conspired" with the Burmese junta in connection with the atrocities and, more specifically, that the plaintiffs' allegations that they had been required to submit to forced labor

adequately stated a claim that Unocal had participated in "slave trading," one of a small subset of international law violations in which even a private party can engage.

Judge Paez's conclusion regarding "slave trading" is surprising, to say the least. More fundamentally, it is quite clear from the opinion — and is confirmed by a reading of the plaintiffs' complaint — that the plaintiffs alleged no genuine facts indicating that Unocal in fact had engaged in wrongdoing. Their complaint offered only the generalized assertion that Unocal "knew or should have known" that atrocities were occurring, and their further allegation that Unocal had agreed to subsidize the activities of the Burmese military and police in clearing land and providing security services was made solely on "information and belief."

Allegations of this kind, absent some more specific underpinning of supporting facts, amount at most to speculation and conjecture and, viewed objectively, hardly establish any basis to demonstrate Unocal's approval or participation in alleged atrocities. Accusations of complicity in a foreign military's acts of torture, rape and other human-rights

violations, when leveled against a responsible U.S. company, carry with them a heavy reputational cost, not to mention the litigation costs and burdens involved in defending a lawsuit of this kind.

Before allowing the plaintiffs' lawsuit to proceed, Judge Paez, in my judgment, should have required the plaintiffs to come forward with specific facts establishing the bona fides of their assertions of Unocal's alleged wrongdoing.

(Although Mr. Heartney represents oil companies in complex civil litigation, his clients do not include Unocal or Total.)

Edwin Smith

Judge Paez did not invent new law with regard to the corporation's potential liability resulting from actions that were taken in Burma.

His ruling was based on a statute passed by Congress in 1790, the Alien Tort Claims Act. While that statute was first passed to allow aliens in the United States to bring tort claims against those who violated "the law of nations," or international law, Judge Paez has applied the statute to permit claims for

Some Say Paez's Rulings Miss the Mark, But Most Disagree

Continued from Page 9

violation of international human-rights law.

This is not a novel claim, since the 2nd Circuit first permitted such a claim in 1980 in *Filartiga v. Pena-Irala*, 442 U.S. 901, and similar cases have been brought subsequently in the 9th Circuit.

The claim in this case may be unusual because the defendant is a U.S. corporation, while most other defendants under the statute have been foreign corporations or individuals and, in some unsuccessful cases, foreign countries. Judge Paez properly dismissed the government of Burma in recognition of its sovereign immunity, a ruling that is consistent with U.S. Supreme Court precedent.

In this case, Unocal is a joint actor with the government of Burma, but the corporation is not protected by sovereign immunity and should not be dismissed.

Overall, I would give Judge Paez very good marks on his ruling by acknowledging that he has utilized existing law in a slightly more imaginative context. He has not "invented new law" in coming to his decision.

■ *Los Angeles Alliance for Survival v. City of Los Angeles*, 987 F. Supp. 819 (1997)

Concerned by the use of threats, fear and intimidation by those soliciting funds from ordinary citizens, the Los Angeles City Council enacted an ordinance, Prohibition Against Certain Forms of Aggressive Solicitation. The ordinance prohibited people from aggressively soliciting funds in such areas as public restaurants, automated teller machines and vehicles. The Los Angeles Alliance for Survival, the Los Angeles Coalition to End Hunger and Homelessness and Jerry Rubin sought an injunction against the implementation of the ordinance, contending that the ordinance was content-based and violated the solicitors' First Amendment rights to free speech.

Granted. The ordinance sought to prohibit solicitation in public restaurants. The city failed to satisfy its burden of proving that the regulated speech was incompatible with the normal activities of the public forum. In addition, time-, place- and manner-restrictions must be applied to all speech without regard to content. The city's ordinance failed, because it permitted unlimited access by people who wished to approach residents about random subjects, but it prohibited people or organizations soliciting funds from doing so. Thus, the ordinance was invalid on its face, because it embodied a content-based discrimination between speech conveying information and speech conveying information in conjunction with a request for funds. The city was enjoined from enforcing the ordinance.

Erwin Chemerinsky

I carefully read Judge Paez's opinion and found that it was excellent in every respect. Judge Paez carefully summarized the law on each issue. His conclusions are in accord with Supreme Court precedent and 9th Circuit law. Indeed, his conclusions are consistent with those of other judges. Laws restricting solicitations, like the one considered in *Los Angeles Alliance for Survival*, have been declared unconstitutional by other federal judges.

Judge Paez's opinion is thorough, clearly written and carefully reasoned, properly considering procedural and jurisdictional issues first and explaining why there are no obstacles to deciding the merits. The opinion evidences appropriate judicial restraint. Judge Paez properly issued a preliminary injunction based on a state-law claim, rather than reaching the federal constitutional issue. This, of course, is in accord with the general rule that federal courts should reach issues of U.S. constitutional law only as a last resort.

Douglas W. Kmiec

This case addressed the serious urban problem of aggressive panhandling — that is, solicitation that is intended or is likely to cause a reasonable person to fear bodily harm — and a Los Angeles city ordinance designed to mitigate this harm.

The ordinance was narrowly addressed to special circumstances of vulnerability, such as while one is withdrawing funds from an ATM or while one is at an intersection in a vehicle. In granting a preliminary injunction against the ordinance, Judge Paez resolved virtually every question against this measure that, at best, merely would have insured a level of community civility and safety. His approach is, to say the least, judicially active and in that, highly troubling.

Federal courts are instructed to abstain from construing issues of state law unnecessarily. Here, it was argued that the state Constitution granted greater protection to a speech interest — solicitation — than the First Amendment to the U.S. Constitution. It would have been prudent, under federal abstention doctrines, to give the California courts an opportunity to construe its own law.

Nevertheless, Judge Paez proceeded to the merits and construed the state constitution to be violated, even though the First Amendment likely would not be. For purposes of the injunction, he found the ordinance not only likely to be unconstitutional as applied, but facially unconstitutional — meaning that he could conceive of no circumstance in which the law could be constitutionally applied.

To the common man, the notion that aggressive panhandling is a form of speech requiring a federal court to displace a local law, without even giving that law an opportunity to be applied and construed in a state court, must surely be astounding. The opinion is also unrefined in reasoning. It asserts that solicitation is protected speech, but fails to note that the U.S. Supreme Court upheld a broader limitation of solicitation in a public airport five years before Judge Paez decided this case.

Judge Paez viewed the ban on aggressive solicitation to be a content limitation, a proposition that is open to considerable question. Nothing in the Los Angeles ordinance suggested any content lines were drawn.

Lujan v. Pacific Maritime Assoc., CV-95-749 (C.D. Cal. 1996)

Arthur Lujan, a truck driver, injured his neck, back, right arm and leg. As a result of his injury, he could not do work that required heavy lifting, carrying, pushing, pulling, climbing, bending quickly to the floor or walking most of the time. Lujan claimed he was unable to work and received disability benefits from the Social Security Administration.

Years later, the Pacific Maritime Association, unaware of Lujan's disability, offered Lujan a position as a longshoreworker as long as he passed a strength and agility test. Lujan did not ask for any specific accommodation and failed the test. Lujan filed a lawsuit against Pacific under the Americans with Disabilities Act, seeking declaratory and injunctive relief ordering Pacific to reasonably accommodate him as a disabled applicant. Pacific moved for summary judgment.

Granted. Lujan was not precluded from contending that he was disabled with respect to the time during which he was neither receiving disability benefits nor contending that he was totally unable to work. However, he was disallowed from taking inconsistent factual positions. Here, judicial estoppel prevented Lujan from contending that he could work as a longshoreworker while simultaneously representing to the Social Security Administration that he could not work. Other courts have made strong statements against the application of judicial estoppel in the Americans with Disabilities Act context. However, those cases involved "listed" disabilities, which was not the case here.

Joseph Posner

Arthur Lujan sued for disability discrimination under both the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq., and the Fair Employment and Housing Act, Government Code Section 12940. The defendants were the Pacific Maritime Association, a multiemployer association of shipping and related companies, and a longshoreman's union. Lujan had been injured while working as a truck driver. The injury left him unable to use his right arm and hand, and he suffered neck and back pain.

At various times, he applied for and received Social Security Administration disability benefits. He also attempted to get work through the defendants in a light-duty capacity, arguing that although he had been severely injured, there were still jobs available that he could do within his limitations.

Judge Paez granted summary judgment to the defendants on the grounds of judicial estoppel, which is a polite way of saying that the plaintiff is making two different claims, to two different tribunals, that are fundamentally inconsistent on their facts.

The 9th Circuit reversed, relying on *Johnson v. State of Oregon*, 141 F.3d 1361 (9th Cir. 1999), which held that neither application nor receipt of disability benefits automatically bars a claimant from establishing that he or she is a qualified person with a disability under the ADA. The U.S. Supreme Court came to the same conclusion in *Cleveland v. Policy Management Systems Corp.*, 119 S.Ct. 1597 (1999).

Judge Paez's summary-judgment decision is not surprising, however. There was considerable uncertainty among both judges and employment-law practitioners at the time about whether, when and how the judicial estoppel concept could be applied. Judge Paez discussed the two competing schools of thought in a scholarly and thorough manner.

He recognized the real difficulties faced by a claimant in the real world:

"The court is cognizant of the difficulty, pointed out by the *Smith* court, of putting a plaintiff in the untenable position of choosing between his right to seek disability benefits and his right to seek redress for an alleged violation of the ADA." *Smith*, 859 F. Supp. 1142. Where an applicant for disability benefits takes a position before the SSA that can be harmonized with his or her position that a potential employer has violated the ADA, judicial estoppel should not apply. However, where the two positions are irretrievably inconsistent, judicial estoppel will sometimes be necessary in order to prevent litigants from playing fast and loose with the truth."

Judge Paez, of course, did not have the benefit of either *Johnson* or *Cleveland* at the time he wrote his opinion. Given the uncertainty of the law at the time, he could have come to the contrary position just as easily. The 9th Circuit opinion in *Lujan* raised a number of issues that do not appear in his district-court opinion, perhaps because they were not raised by the parties or because they were only suggested by the decisions in the later cases.

Thus, one can certainly not fault Judge Paez for his decision on what was then a very close call. I thought that he was very conscientious in the way that he analyzed the two competing strains of case law. His writing was clear and his expression was good. He did not show any ideological or personal bias.

Mark A. Romeo

As part of a plaintiff's prima facie case in a disability discrimination action, the plaintiff has the burden of demonstrating that, while "disabled," he or she can perform the essential functions of the job held or desired with or without a reasonable accommodation, i.e., that he or she is a "qualified individual with a disability."

Judge Paez's opinion was well-reasoned and, while not breaking new ground, applied a doctrine that up to that point was relatively unused within the 9th Circuit, and was the source of several conflicting opinions in other circuits. In concluding that Lujan was judicially estopped from claiming that he was a qualified individual with a disability, the judge relied heavily on the fact that Lujan had taken a position in his disability discrimination lawsuit that was "irretrievably inconsistent" with the one he took before the SSA.

The judge carefully balanced the difficulty of putting a plaintiff "in the untenable position of choosing between his right to seek disability benefits and his right to seek redress for an alleged vio-

lation of the ADA." The court also recognized the need "to prevent litigants from playing fast and loose with the truth." While dismissing this particular plaintiff's lawsuit, Judge Paez did leave room for a disability-discrimination suit when the plaintiff's position before the SSA could be "harmonized" with his or her position that the employer violated the ADA.

Although his decision was later reversed, in relevant part, on appeal, I believe that Judge Paez made the correct decision given the facts before him. Moreover, the judge did not appear overly sympathetic to either side and seemed to seize upon the opportunity to make a tough decision when the facts called for him to do so.

John J. Manier

Judge Paez's opinion in *Lujan* was well-written and analytically sound. The 9th Circuit reversed Judge Paez based on its subsequent ruling in *Johnson v. Oregon*, 141 F.3d 1361 (9th Cir. 1998), which rejected a per se rule that a plaintiff who makes a representation of total disability in a disability-benefit application is judicially estopped from pursuing claims under the ADA and similar state laws.

But Judge Paez did not follow such a per se approach. Instead, he recognized that the application of judicial estoppel in this context is "fact driven" and that the propriety of summary judgment should be analyzed on a case-by-case basis. This is consistent not only with the 9th Circuit's rulings but, more important, with the U.S. Supreme Court's 1999 *Cleveland* decision.

Judge Paez further noted that the plaintiff's representation of total disability in *Lujan* came after he was specifically advised that his condition "must be severe enough to keep a person from working not only in his or her usual job, but in any other substantial gainful work."

The 9th Circuit ignored this fact, however, and instead construed the plaintiff's statement "as an assertion that he is eligible for total disability benefits [rather] than as an 'unconditional representation' that he is 'completely disabled for all work-related purposes.'" Judge Paez thus appeared to have been more faithful to the undisputed facts of *Lujan* than the 9th Circuit.

Judge Paez's opinion also demonstrated a willingness to grant employers' motions for summary judgment in job-bias lawsuits. Contrary to what plaintiffs' attorneys frequently argue, Judge Paez went out of his way to note that "summary judgment is not 'disfavored' " under the federal rules.

■ **Securities and Exchange Comm'n v. Cross Financial Serv. Inc.**, 908 F.Supp. 718 (C.D. Cal. 1994)

Cross Financial Services Inc. devised and participated in a scheme to raise money from investors by representing that it would use investor funds to engage in factoring accounts receivable. The company represented that investors would receive returns at a rate of 15 percent to 20 percent annually, and that the investments were low risk. Cross Financial, however, never factored even one account. It raised more than \$21 million from over 700 investors.

The Securities and Exchange Commission filed a complaint against the corporation, seeking a temporary restraining order, preliminary and permanent injunctions, appointment of a receiver and other equitable and legal relief.

Granted. A permanent injunction and disgorgement order were entered against Cross Financial. The promissory notes issued to prospective investors were "investment contracts" and, thus, "securities" for purposes of securities laws. The note holders invested money with the company and funds were pooled. The investors were dependent on the company to succeed or fail and had no way to control or influence decisions regarding investments. Moreover, these notes were issued without compliance with applicable SEC registration requirements. Finally, Cross Financial made fraudulent misrepresentations inducing investment and fraudulently misused the money it received from issuing the promissory notes.

Kenneth S. August

From the transactional-securities standpoint, *Cross Financial* involves one of the most difficult areas for the judicial system to handle: the sale of contracts that may under certain circumstances be classified as a "security" by virtue of the nature of the contract, while given a different set of circumstances the same type of "contract" may not be a security at all.

Unlike shares of stock, bonds or other classic forms of securities, some documents may qualify as securities by the "investment nature" of the contract alone. The promissory notes in the *Cross Financial* case are a perfect example of this.

Under the case's specific facts — where the people purchasing the notes were doing so with a definite intention to make a substantial profit solely from the activities of the company issuing the notes — such notes are seen primarily as a vehicle for investment. They are to be viewed as a classic "security" in the same way that a share of stock would have been had the company chosen that method to raise funds.

However, if the same company issued a promissory note to someone under an entirely different set of circumstances — for example, as an evidence of a trade debt or other commercial extension of credit — that note would not be seen as a security even though, on its face, the notes may appear identical.

Judge Paez' decision, in my view, was absolutely correct and in line with the general view that all those engaged in the illegal sale of securities — whether as a principal or only "nominally" — should be held accountable for the damage done to the investing public.

If a person purchases any contract based on certain representations that they will receive a substantial return through the efforts of the issuer of that contract, then, absent other factors that would result in a different decision, that person has entered into an investment contract. The sale of that contract right is a securities transaction as surely as if the person received a stock certificate instead of the signed agreement.

That transaction must either be registered for public sale in compliance with federal and state securities laws, or fall into some specific federal and state exemption from such registration. To the extent those representations are false or misleading, individuals engaged in such activity are liable for securities fraud.

Jack Samet

I thought the case was correctly and well-decided. It was a thorough opinion that made difficult judgments. There were two main issues: Should the "nominal defendant" concept be adopted in the 9th Circuit; and if it is adopted, how should the assertion of 5th Amendment rights affect somebody's status as a nominal defendant — that is, someone who has received proceeds from a transaction but has no claim to ownership of those proceeds.

As to the first issue, I thought Judge Paez was correct in taking from the 7th Circuit the concept of the nominal defendant.

As to the second issue, should such a party be subject to the jurisdiction of the court? Judge Paez said they should. If a party said they have a right to the proceeds from a transaction, they have a duty to explain. In this case, the party asserted the Fifth Amendment, and Judge Paez issued summary judgment against them. I think that's a correct decision. A person who asserts his or her Fifth Amendment rights should not be treated as if that individual had proved his or her innocence.

■ **United States v. White**, 893 F. Supp. 1423 (C.D. Cal. 1995)

The United States filed a complaint for an injunction against abortion-protesters Jeffrey White and others, alleging violations of the Freedom of Access to Clinic Entrances Act (FACE). Specifically, the United States sought an injunction to prevent White from using further force, threats or intimidation against Dr. Michael Morris and his wife. Morris was exiting from the driveway of his homewhen a protester pantomimed shooting the doctor. Morris also was surrounded by the protesters and sustained cuts and scratches from the incident before a neighbor created a diversion. Although the protesters' actions were observed by employees of the local sheriff's office, that office's resources were limited.

Motion granted. White made several arguments, including that FACE was unconstitutional and Congress was prohibited from enacting the legislation. White's arguments were rejected. The government was entitled to injunctive relief. For injunctive relief, the United States only had to show a reasonable probability that it would prevail in establishing a FACE violation by White. Here, it showed a substantial likelihood of prevailing.

Furthermore, in balancing interests, the United States was favored. An injunction imposed little or no hardship on White because it prohibited conduct, not expression. Finally, the public interest in the Morris' basic safety and freedom of movement, and in preventing reoccurrences, warranted an injunction.

Douglas W. Kmiec

This case finds Judge Paez granting injunctive relief under a federal statute (FACE) designed to facilitate access to abortion facilities.

The judge's approach here was far more deferential to the interests of government censorship of demonstration — a more recognizable historic form of First Amendment activity — than it was in addressing the problem of aggressive panhandling.

Substantively, the reasoning of the opinion is very likely sustainable.

However, given the judge's highly intrusive protection of a dubious speech claim in *Los Angeles Alliance*, this case suggests an almost opposite attitude of hostility to demonstrative speech. Reading the two cases together, one gets the impression that for the judge, the subject matter may be outcome-determinative.

A variety of arguments were made against the application of the statute, most of which the judge properly dismissed. Nevertheless, the case is troubling because it suggests that Judge Paez has an open-ended concept of federal power that far exceeds anything the Supreme Court has sanctioned — most notably, his expansive views of Section 5 of the 14th Amendment.

In addition, Judge Paez seemed less than sensitive to the particular facts — namely, that the demonstrations had been peaceful for an extended period before he issued his opinion, a fact that suggests there was less evidence in the case of "force or threat of force or physical obstruction" than a preliminary injunction would require.

Carol Sobel

In *White*, Paez granted an injunction under FACE, prohibiting a group of anti-abortion demonstrators from coming within a specified distance from a doctor who performed abortions. Prior to the injunction, a series of incidents involving physical force and extremely threatening conduct against the doctor and his wife had occurred at the access to their residential property.

In one instance, a neighbor of the doctor created a diversion to allow the doctor and his wife to escape. After that, the situation was kept under control through the constant presence of law enforcement outside the doctor's home.

Although the demonstrators claimed that FACE was unconstitutional and that the injunction would violate their rights to free speech, the order Judge Paez crafted was, in fact, narrower than injunctions upheld by the U.S. Supreme Court and, later, the California Supreme Court, in cases involving so-called "buffer zones" against anti-abortion demonstrators. The injunction was also consistent with the Supreme Court's earlier decision in *Frisby v. Shultz*, 487 U.S. 474 (1988), which did not involve the highly controversial issue of abortion but recognized that a right of privacy in one's home outweighed a claim to unrestrained, targeted expressive activities by demonstrators.

While some analysts suggest Judge Paez's decision in *White* may be result-oriented, his application of traditional First Amendment case law to uphold FACE and the right of Congress to enact the law under both the Commerce Clause and Section 5 of the 14th Amendment was entirely consistent with the reasoning and result in conservative jurisdictions, nearly all of which issued broader injunctions and upheld FACE against a series of constitutional challenges brought by anti-abortion activists.

Similarly, his decision in *Los Angeles Alliance* did nothing more than apply controlling 9th Circuit precedent, *Carreras v. City of Anaheim*, 768 F.2d 1039 (9th Cir. 1985), which had been applied by a number of district court judges — across the political spectrum — in very similar cases.

(Ms. Sobel was counsel for the plaintiff in National Abortion Federation v. Operation Rescue, 8 F.3d 680 (9th Cir. 1993), on which Judge Paez relied in establishing the likelihood of a continuing threat and the necessity of an injunction in "White").

■ **Vadino v. Banco de Entierios, CV 94-00319 (C.D. Cal. 1994)**

Louis Vadino, an American citizen, was issued a letter of credit from Banco de Entierios, an Argentine bank. Vadino demanded payment on the letter of credit, which Banco refused. Vadino filed a lawsuit against Banco in California, and Banco filed a lawsuit against Vadino in Argentina. Banco moved for dismissal of the California suit based on forum non conveniens, arguing that the Argentine court was an adequate alternative forum and that the balance of interests favored dismissal. Vadino countered that California was the proper forum for the case because, among other reasons, he was concerned for his safety in Argentina and the cost of filing fees.

Dismissed. While Vadino's choice of forum was entitled to greater deference because he chose the home forum, Banco effectively succeeded in proving availability of an alternative forum. First, in defending the Argentina action, Vadino was not required to post expensive filing fees. Those fees were only required if Vadino filed a counterclaim.

Moreover, service of process was not an issue. If Vadino was not served in the Argentina action within a time limit, he could file a motion requesting that the court resume jurisdiction over the action. Other factors favored Argentina. Most witnesses lived in Argentina, and California court dockets were crowded. Finally, Vadino's fear for his safety and the hostility of the Latin American legal system were unsubstantiated. Vadino's demand on the letter of credit and hiring of a prominent Argentine attorney were without incident.

Lee Boyd

The case stemmed from a lawsuit by a plaintiff who is unhappy that an Argentine bank was unwilling to let him cash a \$25 million letter of credit. The plaintiff first sued in Argentina, but got impatient and filed suit in the United States over the bank's alleged failure to honor the letter of credit.

Judge Paez's ruling was very well-grounded, based on the notion of forum non conveniens, which allows courts to dismiss a case to another forum overseas — even if the court has jurisdiction.

Judge Paez took the conservative approach of dismissing matters from U.S. courts, in cases where there are working courts in the alternative country, in this case, Argentina. It's certainly not endorsing the bleeding-heart liberal idea of "we should take everything in our courts, because we know better."

Judge Paez was certainly not helping the plaintiff; he was helping this big bank. All the conservatives around the world would be happy that the judge is not opening up U.S. courts to this dispute.

Neal S. Millard

Vadino is an unpublished case decided by Judge Paez and affirmed by the 9th Circuit, also in an unpublished decision. It involved Louis Vadino, the apparent beneficiary of a \$25 million letter of credit issued by Banco de Entierios, an Argentine bank. The letter of credit was subject to Uniform Customs and Practice for Documentary Credits Publication No. 500 of the International Chamber of Commerce, but the discussion in the 9th Circuit did not make clear the governing law or the jurisdiction under which the letter of credit was to be drawn.

The 9th Circuit did make clear that Paez dismissed the suit on the basis of forum non conveniens, and affirmed on that basis.

From the 9th Circuit's discussion, it appears that *Vadino* had a weak case and was a particularly distasteful plaintiff. Notwithstanding that, Paez appears to have written a carefully thought-out opinion, correctly analyzing the law applicable to the procedural aspects of the case and reaching a decision the 9th Circuit found beyond reproach.

Of course, in a case like this, where the judge's discretion is so determinative, Paez could just have easily reached the opposite result, and that probably would have been upheld also, especially if Paez was as careful in documenting the reasons for his decision.

It is difficult to put a "label" on Paez from this decision, since there is no way to tell whether he was reacting to the weakness of the plaintiff's case, whether he just wanted to remove a case from his calendar or whether he truly felt that, intellectually, this was the right type of case to be decided on forum non conveniens. It does show, however, that Paez is prepared to substantiate his opinions, writes convincingly once he makes a decision and is professional enough to ignore what appears to have been personal attacks by the plaintiff and stick to the issues of the case.

The 9th Circuit ended its opinion affirming Paez's decision by saying, "We find that Judge Paez has comported himself in a manner befitting his office and find Vadino's claims to be spurious and wholly without merit."

2/24/00

Send to Burkhardt
for reply?

Yes ☒

No ☐

Can

THE PRESIDENT HAS SEEN
WASHINGTON 2-24-00

February 15, 2000

MR. PRESIDENT:

We prepared a message from you to the teenagers' families that Ben Johnson will read at the funeral today. He has prepared the attached call sheet in the event that you'd also like to call.

*Letter OK
Should do personal
letters families too*

*Carol? Letter OK
should do
personal letter
to families
too ??*

THE WHITE HOUSE
WASHINGTON

February 14, 2000

**RECOMMENDED PHONE CALLS TO THE FAMILIES OF NATASHA MARSH AND
ANDRE WALLACE.**

Call recommended by Ben Johnson
Briefing prepared by Ben Johnson

CONTACT INFORMATION .

ANDRE WALLACE FAMILY
Laura Wallace (mother)
Andre Tyrone Brentt (father)
935 Kennedy Street, NW, Apt. 202
Washington, DC 20011
Home Phone: (202) 829-3171

NATASHA MARSH FAMILY
Madilia "Renee" Marsh- Williams
(mother)
Dwayne C. Williams (husband)
3609 17th Street, NE
Washington, DC 20018
Home Phone: (202) 529-1498

PURPOSE OF CALL

To offer condolences to the families of Natasha Marsh and Andre Wallace. Ms. Marsh and Mr. Wallace were the Wilson High School students who were killed on February 8, 2000 in a drive-by shooting.

BACKGROUND

As you are aware, Mr. Wallace and Ms. Marsh attended a basketball game at Wilson High School, where they were both students. During the game, Mr. Wallace was involved in a fight with a group of others, some were students of the school, others were not. Later that night as Mr. Wallace and his girlfriend Ms. Marsh were unloading groceries in front of Ms. Marsh's home, someone drove by and shot both of them to death. The attached letter from you will be read at the funeral.

TALKING POINTS

- Offer your condolences to each of the families and let them know that they are in your prayers.

THE WHITE HOUSE

WASHINGTON

February 14, 2000

To the Families of Natasha Marsh
and Andre Wallace:

Hillary and I were deeply saddened to learn of the tragic deaths of Natasha and Andre. There are no words to ease the pain of such a devastating double loss, but we wanted to let you know that we are keeping you in our thoughts and prayers.

Violence in our society hurts us all, but few have had to endure its effects so personally. Our hearts go out to you, and we hope that, in the difficult days ahead, you will find strength and comfort in your faith, in the steadfast support of your friends and community, and in your loving memories of Andre and Natasha.

Bill Clinton



THE PRESIDENT HAS SEEN
2-24-00

UNIVERSITY OF RICHMOND
FOUNDED 1830

T.C. Williams School of Law

University of Richmond, Virginia 23173

TP / Sunday
Need to discuss
them - I'm very troubled
by it —
BC

President William Jefferson Clinton

✓
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OOS
Berger
Streett

THE PRESIDENT HAS SEEN

2-24-00

February 18, 2000

President William Jefferson Clinton
The White House
Washington, D.C.



UNIVERSITY OF RICHMOND
FOUNDED 1830

Dear Mr. President:

On April 26, 1999, I sent you a letter discussing the dangers of the use of secret evidence to our constitutional values, and asking you not to leave such a legacy behind. I have attached that letter herein for your convenience.

Today, many congresswomen and congressmen, human rights activists, legal scholars, and distinguished citizens have spoken out against this shameful practice, at times comparing it to practices used during the McCarthy era. Yet your executive order No. 12958, issued on April 20, 1995, remains in place.

Given your shining record in support of civil rights in this country, and of welcoming to the White House religious and ethnic minorities, it would be unfortunate if that record were to be marred historically by your executive order.

Again, Mr. President, I respectfully urge you to repeal executive order No. 12958 and replace it with a constitutionally more equitable order that protects national security without sacrificing civil liberties. How else could we go into the world extolling the virtues of our democratic system, when so many individuals at home have been and continue to be victimized by it? The concerns involved are so fundamental that no administrative fix would suffice to eliminate them.

Furthermore, Mr. President, I urge you to lend your valuable support to the Secret Evidence Repeal Act pending now in Congress. Such a position would be very much in keeping with the rest of your civil rights legacy.

Please be assured that, in making these requests, I and other American citizens are no less concerned about U.S. security than other Americans. We just deeply believe that ignoring constitutional principles in the quest for security is harmful to the very soul of our nation. For what does it benefit a man if he wins the whole world, but loses himself?

Respectfully,


Azizah Y. al-Hibri

Attachment

April 26, 1999



UNIVERSITY OF RICHMOND
FOUNDED 1830

Faculty
The T. C. Williams
School of Law

President William Jefferson Clinton
The White House
Washington, D.C.

Dear Mr. President:

During the reception following the seventh Millennium evening at the White House, you encouraged me to submit to you information about the use of secret evidence in US courts.

I am enclosing a small sample of cases involving the use of secret evidence. The detained individuals are all non-citizens. One of them, Mr. Ahmad, is entering his *fourth* year in detention, Messrs. Haddam and Meddah are finishing their *third* year. As you know, Mr. al-Najjar has been detained for *two* years.

The charges against each of these individuals are serious indeed, and I do not pretend to pass on the merit of each of these cases. That is the domain of the courts. Rather, what I am concerned about is the integrity of our legal system. This country is a country of laws. Its laws are premised on constitutional principles of fairness and due process. These principles have served us well over the years, despite the shortcomings of our system and imperfections in our society. If we begin chipping away at these principles consciously, then the constitutional protections afforded to us by the Founding Fathers will soon fade away.

Let me point out that President Jefferson was quite concerned about these issues when he opposed the Alien and Sedition Act of 1798. The Act, as we all know, empowered the President to deport anyone he deemed dangerous to the country's peace and security. Yet, Jefferson wrote to Madison; "Yesterday Mr. Hillhouse laid on the table of the Senate a motion for giving power to send away suspected aliens. This is understood to be meant for Volney and Collot. But it will not stop there when it gets in a course for execution." Jefferson was concerned about the potential abuse of the proposed alien bill.

When the alien bill was finally proposed, along with the sedition bill, Jefferson wrote Madison: "Indeed this [sedition] bill, and the alien bill are both so palpably in the teeth of the constitution as to show they mean to pay no respect to it."

Page Two/ President Clinton

The situation today also involves aliens who may endanger the security of this country. However, we have gone further "palpably in the teeth of the Constitution" by denying these aliens basic due process protections. Perhaps the Alien and Sedition Act was kinder to aliens by excluding them immediately from our country. Today, we force them to languish in prison for years at the taxpayers' expense while we decide *secretly* their innocence or guilt. They have no right of effective defense or even removal.

I do not believe that Jefferson would have looked kindly on this state of affairs. I also do not believe that you would want to leave behind such a legacy, given your commitment to human and civil rights.

In preparing this letter, I asked my student researcher to type up the attached cases. I briefed her on their contents. She looked at me with bewildered eyes. "In which country is this happening?" she asked. When I said that it was happening here, she asked in disbelief "Today?" "Yes," I answered her with a low voice. I felt ashamed that I was shattering her innocence about the laws of this country.

Would you please help me restore that innocence, for America's sake?

Respectfully,

A handwritten signature in black ink, appearing to read "Azizah X. al-Hibri", with a long, sweeping horizontal line extending to the right.

Azizah X. al-Hibri

United States Senate

WASHINGTON, DC 20510-1103

OFFICIAL BUSINESS

THE PRESIDENT HAS SEEN
2-24-00

TO Meeting/lyguy
Fig. 1000
Be regy
Daniel R. Skata
U.S.S.

Honorable William J. Clinton
1600 Pennsylvania Avenue, NW
Washington, DC 20500

copied
Ibarra
Cutler
Brain
COS
Crouch

DANIEL K. AKAKA
HAWAII

WASHINGTON OFFICE:
720 HART SENATE OFFICE
BUILDING
WASHINGTON, DC 20510
TELEPHONE: (202) 224-6361

HONOLULU OFFICE:
3106 PRINCE JONAH KUHIO
KALANIANA'OLE FEDERAL BUILDING
P.O. Box 50144
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THE PRESIDENT HAS SEEN

2-24-00

United States Senate

WASHINGTON, DC 20510-1103

MEMBER:
COMMITTEE ON ENERGY AND
NATURAL RESOURCES
COMMITTEE ON GOVERNMENTAL AFFAIRS
COMMITTEE ON INDIAN AFFAIRS
COMMITTEE ON VETERANS' AFFAIRS

February 22, 2000

Honorable William J. Clinton
The White House
Washington, DC 20500

Dear Mr. President:

I am writing to once again express my deep appreciation for the commitment your Administration has made to Native Hawaiians. You have kept the promise that you made to Native Hawaiians during your speech on July 11, 1993, at Waikiki Beach in Honolulu. As you may recall, you pledged to work with the Congressional delegation to address issues of concern to Native Hawaiians in a positive way.

During your presidency, the Congress passed P.L. 103-150, the Apology Resolution, whereby the United States apologized to Native Hawaiians for the overthrow of the Kingdom of Hawaii, expressed its commitment to acknowledge the ramifications of the overthrow and to support reconciliation efforts between the United States and Native Hawaiians. In July 1999, the United States declared its special responsibility for the welfare of the Native peoples of the United States, including Native Hawaiians, in the amicus brief filed by the Department of Justice in the case of *Rice v. Cayetano*. In December 1999, Mr. John Berry, Assistant Secretary for Policy, Management, and Budget for the Department of the Interior, and Mr. Mark Van Norman, Director, Office of Tribal Justice for the Department of Justice, began public consultations with Native Hawaiians to discuss efforts of reconciliation.

In December 1999, in a joint letter with Senator Daniel K. Inouye, I requested the dedication of federal resources in the Administration's FY 2001 budget to illustrate its commitment to the process of reconciliation between the United States and Native Hawaiians. This request was made following the public consultations that were held in Hawaii during the first week of December. Understandably, this request was made late in the budget process and was not included in the FY2001 budget.

I believe the establishment of an office within the Department of the Interior to focus on Native Hawaiian issues would underscore your Administration's continued commitment towards efforts of reconciliation with Native Hawaiians as called for in P.L. 103-150. As indicated in my previous correspondence, Mr. Berry and Mr. Van Norman earned the respect of the Hawaiian community during the public consultations held in December because of their sincerity and genuine commitment to improving the quality of life for Native Hawaiians. I will continue to work closely with the Department of the Interior to establish this office and would greatly appreciate your support for this significant initiative.

Honorable William J. Clinton
February 22, 2000
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Mr. President, I am most grateful for your continued efforts to address issues of concern to Native Hawaiians. Through your leadership we have acknowledged and recognized the unique history of Hawaii and have begun to address significant issues of concern to Hawaii's indigenous peoples, the Native Hawaiians. I look forward to continuing this important journey towards reconciliation between the United States and Native Hawaiians.

Aloha pumehana,

A handwritten signature in black ink, reading "Daniel K. Akaka". The signature is fluid and cursive, with the first name "Daniel" being the most prominent.

DANIEL K. AKAKA
U.S. Senator

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NEW YORK

CC: DAN B
ON THIS

February 17, 2000

The Honorable William J.
Office of the President
The White House
1600 Pennsylvania Avenue
Washington, DC 20500-2000

Dear Mr. President,

The Reverend Gardner C. Taylor is universally recognized as one of our nation's greatest assets. Distinguished religious leader and preacher, civic leader, and inspiration to millions, he is the living embodiment of the Black Church's role.

It is therefore fitting that this great American be awarded the Medal of Freedom.

A native of Baton Rouge, Louisiana in 1918, Dr. Taylor is a graduate of Leland College and the Oberlin Graduate School of Theology. After ministering to Baptist churches in Elyria, Ohio and New Orleans, he was called to The Concord Baptist Church of Christ in Brooklyn, New York in 1948, where he served until his retirement in 1990.

Dr. Taylor's remarkable ministry at Concord Baptist exemplifies the Church's historic role of community builder, organizer, educational, and social service institution. Under his guidance, membership tripled and thanks to Dr. Taylor's renowned preaching and his civic and social leadership, Concord became esteemed as the most prestigious black church in the nation.

His many accomplishments at Concord include establishment of a fully accredited elementary school, a 121-bed nursing home, a credit union, a seniors residence, a clothing exchange, and The Concord Church Christfund, an endowment for community uplift. After a 1952 fire destroyed the church, Dr. Taylor mobilized his low-and-moderate income congregation, raised \$1.7 million, and rebuilt the church.

Dr. Taylor is recognized as one of the greatest preachers in our history. In 1980, Time Magazine called him "the Dean of the Nation's black preachers" and similar admiring assessments of his extraordinary pulpit abilities and his theological eminence have been made by civic and religious leaders of all races and denominations. He has served as a

Letter to The Honorable William J. Clinton
February 17, 2000
Page Two

member of the General Council of the American Baptist Convention and is a founder and past president of the Progressive National Baptist Convention.

Dr. Taylor has preached on five continents to members of various denominations and his sermons have been broadcast nationwide, including his Inaugural Sermon at Washington Cathedral in January 1993, on the occasion of your first inauguration.

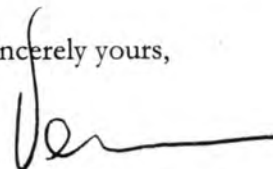
He is the author of four books, including a collection of his Lyman Beecher Lectures at Yale University, and his articles and sermons have been published widely. He has lectured on preaching at over a dozen universities and seminaries, including the Harvard and Yale Divinity Schools. Dr. Taylor's published and taped sermons are studied by students and preachers throughout the world and have influenced generations of scholars and religious leaders.

As important is Dr. Taylor's constructive influence on America's struggle to achieve racial equality. He was an early supporter of the civil rights movement in the 1950s and 1960s, advising and raising funds for Dr. Martin Luther King, Jr., in his campaigns against segregation, serving in numerous community posts including the New York City Board of Education and the New York Urban League, and leading the struggle for equal job opportunities in New York's construction industry.

Dr. Taylor's eminence has been recognized with many awards and honors, including honorary degrees and citations from over a dozen prestigious colleges and universities. In 1999, Atlanta's Interdenominational Theological Center established the Gardner C. Taylor Preaching Archive and Listening Room to keep alive the great tradition of black preaching. And a major thoroughfare in Brooklyn, Rev. Dr. Gardner C. Taylor Boulevard, is named in his honor.

Mr. President, I urge you to award The Medal of Freedom to Dr. Gardner C. Taylor, a great American whose contributions to our national life richly deserve such recognition.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Vernon E. Jordan, Jr.", with a long horizontal flourish extending to the right.

Vernon E. Jordan, Jr.

VERNON E. JORDAN, JR.

2-18-00

Dear Nancy,

I would very much appreciate your putting this in the President's hand. Whatever is decided, I want him to know that I genuinely believe that this is the right and good thing for him to do.

Best,
VJ

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THE WHITE HOUSE
WASHINGTON

DATE: 2/24/00

NOTE FOR: Al From

The President has reviewed the attached, and it is forwarded to you
for your:

Information ☒ XXX

Action ☐

OK to
Send ?
Yes ☒
No ☐

OK to
Send ?
Yes ☒
No ☐

Thank you.

Staff Secretary
(x6-2702)

cc:

Al From
Democratic Leadership Council
Suite 400
600 Pennsylvania Avenue, SE
Washington, DC 20003

- I want to go there!
- cc Sir B/Bonus/Guns
Alfon

Mr. President - REC is an
article about Hyderabad's
Chief Minister that I thought
you might find interesting.
Dan Rosenthal

Financial Times (London)

January 31, 2000, Monday London Edition 1

SECTION: COMMENT & ANALYSIS; Pg. 27

THE PRESIDENT HAS SEEN

LENGTH: 1205 words

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HEADLINE: COMMENT & ANALYSIS: India's virtual visionary:
Honesty and zeal for e-governance has swept Chandrababu Naidu
to the forefront of politics, says David Gardner:

BYLINE: By DAVID GARDNER

BODY:

Shortly after last autumn's general elections in India, a well-known cartoonist featured a grizzled, dhoti-clad, pork-barrel politico trying out a new line on a startled and captive peasant audience. "Ladies and gentlemen dot-com" he began.

The cartoon put under the spotlight those politicians who had survived the carnage of an election which replaced half all MPs, and who are now busy clambering aboard a new bandwagon. Its driver, incontestably, is a young south Indian leader with piercing eyes and a passion for IT.

N. Chandrababu Naidu, the 49-year-old chief minister of the southern state of Andhra Pradesh, emerged from October's polls with unique stature. His ambitious and internationally-backed reform programme (and enthusiasm for "e-governance") confounded the pundits and triumphed over the populist bribes which are the staple of Indian elections. He had cut rice subsidies and raised electricity charges, while his Congress party adversaries offered free power and debt write-offs to farmers, even though years of subsidies had nearly bankrupted the state electricity board and exchequer.

By the time the cartoonist made his acid observation, federal and state ministers were trying to steal Naidu trademarks by posing with laptop computers, mouthing slogans about online accountability, or announcing plans for new "cyberstates".

But the real lesson of the charismatic Andhra leader's victory was that for the first time in India, thoroughgoing, hard-nosed reform was transmuted by voters into electoral reward. The nub of the election was what Naidu admirers

believe to be the historic question he posed to farmers: "Would you like free power now and no power later, or do you want to pay low rates for uninterrupted, quality electricity?"

"Naidu showed you can raise rice prices, cut subsidies, and be re-elected," says an official from a large donor to his programme: "This could be a real turning point in India's electoral history."

"He's the best thing in the country," says Montek Singh Ahluwalia, who as a former chief economic adviser to the finance ministry was architect of India's first tentative opening to the international economy in the 1990s. "He's the first guy to conduct an election on the basis of economic reforms and the fact that we have to compete in the modern world." But Mr Naidu's unique position rests on more than that.

He not only trounced his populist opponents locally but holds the balance of power in New Delhi. His Telugu Desam Party (TDP) nearly tripled its strength to 29 seats in the Lok Sabha or federal parliament, making it the second largest unit in prime minister Atal Behari Vajpayee's 25-party coalition - and the only single party which can rob the government of its 23-seat majority.

Mr Naidu, moreover, has chosen to keep his secular TDP outside the federal cabinet. This has three advantages in an increasingly polycentric India where no single party can rule alone and where power is leaking to the regions: he keeps the focus on developing what he calls his "happening state"; he keeps his distance from Mr Vajpayee's Hindu revivalist Bharatiya Janata party (BJP); and he emphasises his independence. Many would add that in the absence of credible national opposition from Congress, and should the BJP falter, the fourth advantage for Mr Naidu is that he will become the next prime minister.

He says he is not interested in the job. But in the meantime, his position enables him to demand with authority that New Delhi devolve fiscal power to the states and allow them unrestricted access to international capital markets. "There are always so many programmes we can't get done because of Delhi," he says. "It is my firm belief that we should have much greater devolution of financial power and revenue, as well as legislative power."

"Today in India, all states are (involved) in different experiments - we are competing with each other."

What Mr Naidu and the growing number of his imitators are saying is India as the centralised, homogenising state it has been since independence has failed. A competitive model, where the successes of reforming states create a "demonstration effect" to be imitated, must replace it, while the leakage of political power to the regions must be followed by fiscal decentralisation.

Critics harp on the Andhra chief's known quirks, such as the video-conferences he holds just after dawn, with ministers and officials he has made practise yoga, as he does, before sunrise. They suggest he is just an upgraded techno-populist with a good line in gimmicks, promising to wire up a state with one of the worst illiteracy levels in India.

The World Bank, for one, begs to differ. Just over two years ago it decided to concentrate its Indian lending in Andhra Pradesh - up to Dollars 3bn (Pounds 1.8bn) of it over the next decade - betting on the so-called demonstration effect, and on Mr Naidu to lead the way to reform of India's crippled power sector. Bill Gates is another admirer, siting Microsoft's second foreign research facility (after Israel) in Hyderabad, the Andhra capital, as is Jack Welch, who has located much of GE Capital's call-centre business there. In Hyderabad they rub shoulders with successful Indian high-technology companies and will be able to draw on skills from a new Asian business school and IT centre - inevitably called Cyberabad.

Mr Naidu's Vision 2020 programme, co-produced with McKinsey, the consultants, cannot be said to lack ambition. It aims to eradicate illiteracy within 5 years (Andhra's 80m people are only 44 per cent literate against the 62 per cent Indian average). Starting from an income level 25 per cent behind the Indian average, it plans to lift all families above the poverty line and raise per capita incomes seven to eight times over the next two decades, a goal which assumes average annual growth of 11.5 per cent and 20m new jobs.

✓ There is political guile as well as vision behind this drive to transform an agricultural, bullock-powered state into a knowledge-based land of opportunity. Before the elections, for instance, he provided simple gas stoves for 1m poor women, among his firmest supporters. He frees up land for construction companies that help him build Hyderabad's flyovers

- six finished in 15 months against one by Congress in 13 years. "I am creating a programme at macro level with minute attention to details at the micro level, with IT which gives us control and the digitisation of work in progress which is transparent and verifiable." He says 36,000 schools have been built in four years and that now, if an official lies about building a school "he will be caught, with the people's participation".

"With IT and new media, we can easily reach every part of the state," says Mr Naidu, "and there is also the possibility of the leapfrog development I'm always looking for."

Andhra's workaholic chief minister is now confident he has established that Indian voters will reward performance and effort. "I work very hard always and I'm asking other people to do it," he says. "The common man here has abundant common sense, even illiterates (who) have an open mind. And they know there are no short cuts."

LANGUAGE: ENGLISH

LOAD-DATE: January 31, 2000