THE PRESIDENT HAS SEEN
4/23/96

Mr. President
fyi
Bruce

COMMENTARY

Replacing Kenneth Starr

Editorial Of The Times

With a Presidential election only six months away, the public needs to have confidence in the fairness, good judgment and unselfish civic purpose of the independent counsel on Whitewater. It is also important that the months of work by a large, expensive staff not be squandered. After listening to Kenneth Starr's narrow, legalistic reasons for his continued representation of wealthy, politically active clients while serving as independent counsel, we have concluded that Mr. Starr is not the person to deliver on those two goals. It is time for him to step aside and let the investigation go forward under a replacement from the senior staff.

This page has steadily advocated the continuation of the Whitewater investigation in the belief that the public has the right to know the full facts about the Clintons' business dealings. But at the outset, we asked Mr. Starr to step aside because his entanglement with conservative judges cast a shadow over his objectivity. When that did not happen, we urged him to take a leave from his law firm and appoint a deputy to oversee areas of the investigation where he had a clear conflict of interest.

But the number of those conflicts — involving big tobacco, conservative foundations, the Resolution Trust Corporation, the International Paper Company — has grown so great that voters are bound to be confused about the integrity of Mr. Starr's decision on whether to prosecute the Clintons and their associates.

There was a time when Mr. Starr could have ameliorated such doubts with openness and a sensitivity to his obligation to the American people. That time is past. He needs to honor the work of his staff and the investment of the taxpayers by stepping down.

Bruce

Gardening With Beijing

By THOMAS FRIEDMAN

WASHINGTON — President Clinton's trip this week highlights how absurd the U.S.-China relationship is. He went to Korea, then Japan, and then is flying around China to Moscow, where he will try to give Boris Yeltsin a boost for his upcoming election.

Excuse me, but Boris Yeltsin kills more people in Chechnya on a slow morning than ever died in Tiananmen Square in 1989, yet for some reason a U.S. President can go to Moscow to support Mr. Yeltsin and no one says boo. But if Mr. Clinton were to stop off in Beijing, he would be pilloried. This is crazy.

What the U.S. and China need today is precisely the sort of framework that Secretary of State George Shultz fostered in the mid-1980's for dealing with the Soviet Union. Mr. Shultz and his Soviet counterpart met at least twice a year at "ministerial" meetings, which included some 60 experts and senior officials from both countries. They were divided into five different working groups — human rights, arms control, trade, political issues and global problems — and worked through each one. The result was progress on human rights and strategic issues — all at a time when the U.S. was calling Russia "the evil empire."

As Secretary Shultz said to me: "I liken this sort of diplomacy to gardening. If you just put in some plants in the spring, and then walk away, when you come back a few months later your garden will be so overgrown with weeds you won't be able to get them out without also pulling out the flowers. But if you tend your garden regularly, and get the weeds out when they are small, your plants will have a chance to thrive."

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Handcuffing Reform

By E. JOSHUA ROSENKRANZ

As irate voters lash out at politicians who are unwilling to end the corrupting influence of money on politics, they should realize that another obstacle blocks genuine reform: Buckley v. Valeo, a 20-year-old Supreme Court decision that prohibits campaign spending caps and other measures necessary to reform campaign financing.

On Monday, the Supreme Court heard Colorado Republican Federal Campaign Committee v. Federal Election Committee, which presents its first opportunity in many years to reconsider the Buckley decision. The Colorado Republican Party is challenging a 1974 Federal law that limits the amount a state or national party can spend on Congressional races.

In the Buckley case, the Court concluded that expenditures — the spending of money by a candidate or in support of a candidate — is speech and thus entitled to virtually unqualified First Amendment protection.

On the other hand, the Court held, contributions made directly to a candidate may be limited — but only if they are large enough to appear corrupt.

Buckley has spawned a bizarre set of rules. In its name, courts have killed scores of innovative campaign reform laws, including $100 limits on donations to a state race, bans on political action committees and bans on "war chests" — leftover campaign funds that politicians roll over to the next election.

During Monday's arguments, several Justices asked Buckley's tired question: Is a political party's campaign spending a contribution (which may be limited under Buckley) or an expenditure (which may not be)?

That is a meaningless question. Instead, the Court should ask, "Will this law enhance the public's perception that elected officials cast votes based on their principles, not their purses?" If so, the Federal law limiting state party contributions should be upheld, and Buckley reconsidered.

E. Joshua Rosenkranz heads the Brennan Center for Justice at New York University School of Law.

THE PRESIDENT HAS SEEN
3/1/96

96 FEB 29 P4:36

29 February 1996

MEMORANDUM TO THE PRESIDENT

CC: Leon Panetta (w/o enc.)
Evelyn Lieberman (w/o enc.)

From: Harold Ickes HI

Re: Test of President Clinton's State of the Union Address of 23 January 1996

Attached is a video cassette of a perception analyzer test of your State of the Union Address of 23 January 1996, taken in St. Louis, Missouri. It was sent to me by Joel R. Morgan, Manager, MSI Media Productions Talent Bank, 111 SW 5th Avenue, Ste. 1850, Portland, OR 97204.

THE PRESIDENT HAS SEEN
3/1/96

29 February 1996 96 FEB 29 P4:36

MEMORANDUM TO THE PRESIDENT

CC: Leon Panetta (w/o enc.)
Evelyn Lieberman (w/o enc.)

From: Harold Ickes HI

Re: Greenberg and Associates, Dayton focus groups, 16 January 1995

Attached is a video tape of the focus groups that Stan Greenberg took in Dayton, Ohio on 16 January 1995.

Jack

THE PRESIDENT HAS SEEN
3/5/96

To: Ann Bormolini

From: John Horsley

Date. March 1, 1996

Subject: Wayne County/Detroit Metro Airport $150 Million LOI Request

As requested I have discussed this matter with the Offices of Senator Levin (Chris Miller 224-6221) and Wayne County Executive Ed McNamara (David Katz, Chief of Staff 313-224-0408). I explained to both that we definitely wanted to help especially in the areas of PFCs and innovative finance, but also were constrained in some of the areas they were hopeful we could provide funding. I explained as indicated by the FAA that we had discontinued issuing LOIs in 1993 and had no plans to issue any in 1996; and that "discretionary" AIP grant funds could not be made available for terminal facilities.

After explaining all this to David Katz in McNamara's office I offered to put together a meeting with him and his Detroit Airport team with Steve Martin and the FAA to discuss PFC and Innovative Finance Options. He was pleased to hear this and will call early next week to see if this can be done in the next couple of weeks. They still want to press us to consider a $150 million LOI, but appreciate the offer to explore other financing alternatives.

After discussion with Chris Miller I promised answers to three questions: Could portions of the existing $185 million LOI for Detroit be reprogrammed for the new mid-field terminal? Are there "turn back" funds which may be available for reprogramming in May or June? And is there a near-term opportunity to change the formula share Detroit receives as they believe they are getting less than current enplanements would justify?

According to Northwest Airlines representative Elliott Seiden who came by, they are hoping for the $150 million new LOI plus reprogramming of $50 million from the previous LOI. When I explained that we were no longer issuing LOIs he raised the question that since Bob Carr's prohibition was not included in this year's Appropriation Bill, was this as a matter of policy or reluctance? I said I did not know but would inquire.

Leon

This is a huge deal to Ed McNamara
Wayne Cty Exec -
we need to do something for him if we can
Pls work on it for me

BC

Copies sent to
Ickes
Sosnik

THE PRESIDENT HAS SEEN
8-2-96

EXECUTIVE OFFICE OF THE PRESIDENT

31-Jul-1996 10:17am

Mr. President -
Looks like your letter on partial birth to Jack Joyce did some good. - Doug

TO: Jennifer M. O'Connor
TO: Marilyn Yager

FROM: Virginia M. Terzano
Office of the Vice President

SUBJECT: jack joyce letter

FYI only --

I saw Joan Baggett yesterday who passed on that Jack Joyce was pleased with the President's response letter on abortion. And although Joyce still says he won't not support the President, he is having the letter reprinted in all the Bricklayers newsletters.

Sosnik
Ickes
FYI

9/18/96

THE REPUBLICAN TRAVEL OFFICE REPORT

THE PRESIDENT HAS SEEN
9/23/96

The Gingrich-led House Republicans, unable to find any wrongdoing during their year long investigation, have resorted to making wild and unsubstantiated charges in an attempt to grab media attention.

- The Committee staff took over 75 depositions during its year-long investigation. The Committee's Republican Chair -- Rep. Bill Clinger -- held press conferences, issued press releases and made the talk show rounds leveling baseless and irresponsible allegations. Yet, when all was said and done, the Committee could scrape together enough substance for only three days of actual hearings on the Travel Office matter. Even during these three hearing days, the Clinger Committee produced nothing new.

- The Travel Office has been investigated seven times. The Clinger Committee failed to uncover a single new fact. The only thing new is the unprecedented misuse by Newt Gingrich and his lieutenants of tax dollars to attack the President and First Lady.

- After countless witnesses provided sworn testimony; after tens of thousands of pages of documents have been subpoenaed; after an investigation that lasted over an entire year -- all paid for by American taxpayers -- Rep. Bill Clinger, Newt Gingrich's instrument, has failed to produce a single **legitimate** finding of wrongful or unethical conduct by the President and First Lady.

- The "findings" made by the Republican Travel Office Report rely on little more than rank innuendo and discard key facts when they do not support the Republicans' preordained conclusions.

The release of the Republican Travel Office Report is rank hypocrisy on the part of Speaker Gingrich who is covering up his Ethics Committee report.

- Even as the House Republicans are marketeering the Travel Office report less than two months before the election, Speaker Gingrich is fighting efforts to make public the House Ethics Committee's report on whether he violated federal tax laws.

- Speaker Gingrich should not be allowed to slow-walk disclosure of his ethics report while trumpeting the baseless and preordained conclusions of his so-called "investigation."

The Gingrich-Dole Congress could be called the "do nothing but hold attack hearings Congress."

- The Gingrich-Dole Congress has held over 100 days of hearings over the last two years -- all at a cost of millions of taxpayers dollars -- to inflict political damage on the Clinton Administration.

The Gingrich-Dole Congress could be called the "do nothing but hold attack hearings Congress."

- The Gingrich-Dole Congress has held over 100 days of hearings over the last two years -- all at a cost of millions of taxpayers dollars -- to inflict political damage on the Clinton Administration.

- Newt Gingrich kept his promise to use tax dollars to dig for political dirt:

    - In October of 1994, Gingrich promised to wield subpoenas against what he called the "enemy" Clinton Administration.

    - In April of 1996, Gingrich's top political operatives issued a memo ordering House Republican Chairmen to "expose" the Clinton Administration. Not coincidentally, a few weeks later Congressman Clinger manufactured a phony document dispute and turned it into an executive privilege fight.

    - Now we hear that just prior to this report being compiled, Newt Gingrich met with top Dole campaign operatives to orchestrate more subpoenas from Chairman Clinger in a desperate attempt to breathe life into this matter -- six weeks before the election.

- While politically motivated partisan opponents of the President were carrying out the Gingrich order by holding a year-long investigation on an already over-reviewed three-and-one-half-year old incident they held only one day of hearings on their own plan to cut medicare.

The Gingrich-led House Republicans, unable to find any wrongdoing during its year long inquiry, resorted to issuing a report that was as unprofessional as it was sloppy.

- When the Wall Street Journal called the White House for comment on the draft report, the Journal indicated that House Committee staff had identified a July 8, 1993 meeting between President Clinton and Harry Thomason as the most important revelation in the report. **THIS MEETING NEVER TOOK PLACE.** President Clinton wasn't even in the country on the day of the supposed meeting -- he was in Japan.

The White House has cooperated in good faith with every legitimate request of the Committee.

Fact Sheet on the Clinger Investigation

- For the 44 Members of the Government Reform and Oversight Committee, the meandering Travel Office investigation constituted the Committee's top agenda item for most of the 104th Congress.

  - In the process, the Committee abdicated its traditional legislative and oversight responsibilities in such key areas as Medicare, welfare, defense and telecommunications.

  - This was an investigation of trivial nuances, with whole months being devoted to probing the margins of essential facts that had been established and reestablished in six prior investigations.

- Unlike Congressional investigations into the actions of past Administrations, the Travel Office inquiry was not conducted primarily by the Members through open public hearings. In the course of nearly 18 months, only three public hearings were held -- and none in the past 8 months.

  - Rather, "fact-finding" was simply announced at press conferences or through leaks to the press, or was pursued behind closed doors through staff depositions, staff letters, and staff reports.

  - For example, the Committee went to the floor in April 1996 to receive authorization for staff depositions. After taking nearly 75 depositions over four months, the Committee chose not to conduct even a single public hearing where Members could probe the results of staff work. Instead, the staff made their own characterizations of these depositions in the Majority report and termed this process "Committee Fact-finding."

- Time and time again, the press has reported -- most recently in Newsweek -- that the House Republican leadership orchestrated the timing of various events in the Committee investigation and pushed to make sure that the investigation stretched into the presidential election season.

- The Committee "process" in respecting the rights of the Democratic minority or respecting the prerogatives of the Executive branch hit an all time low with this investigation. Over and over again, agreements with the Democratic minority or the White House were unilaterally amended or completely abrogated -- often by staff letters announcing new terms or new arrangements. The institutions of government will long pay a price for this irresponsible use of Congressional authority.

THE REPUBLICAN TRAVEL OFFICE REFERRALS

- **The referrals made by the Republicans constitute nothing more than a political stunt.**

  - The referrals have no legal signficance. Anyone could make such a referral. The Independent Counsel was given jurisdiction to investigate the Travel Office matter last March.

    - The Independent Counsel already has been working closely with the Committee, receiving transcripts of staff depositions as they are prepared and copies of the document productions.

    - Witnesses appearing before the Committee on the Travel Office matter have already been questioned by the Independent Counsel.

- **The referral device is a media gimmick, resorted to by the Republicans because their failed investigation won't make news.**

copied
Podesta
Ricchetti

August 4, 2000

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING
JASON FURMAN

Subject: Likely Consequences of Potential Republican Budget Plans

This memo responds to your request to understand how the policies being considered in Congress this year, combined with policies that could potentially be considered next year, would impact the budget and the economy over the next decade. It is not possible to evaluate and make decisions about the tax cuts being passed by the Republican Congress without understanding their long-run consequences and interaction with policies that might be considered next year.

I – OVERVIEW

A. Framework for the Analysis

The effect of Governor Bush's tax and budget plans on the on-budget surplus, investments in domestic priorities, and debt reduction, can be analyzed from three perspectives:

(1) Explicit Proposals. The most generous perspective to Governor Bush is to only count the proposals that he has explicitly made. These costs are largely uncontroversial in that only one proposal – missile defense – comes without an explicit cost estimate from the Bush campaign. To make these calculations we have used a conservative cost estimate of $200 billion over 9 years. Even these explicit proposals would be enough to create a substantial on-budget deficit and leave multi-trillion dollar debts.

(2) Reasonable Accounting of a Full Budget.

(A) Explicit Proposals With Explicit Congressional Republican Tax Cuts. Governor Bush has given every indication that he would support Congressional proposals on marriage penalty, Social Security benefit taxation, and prescription drugs that go beyond his own explicit proposals. Simply adding the non-duplicative tax cuts passed by the Republican Congress this year would add at least $456 billion to his tax cut (or $571 billion with added interest). This brings the total 9-year cost of the tax cuts to $1.777 trillion, or $2.140 trillion with interest. (This estimate does not include the tax cuts that were passed by the Republican Congress in 1999; that could add more than $200 billion more to the cost.)

(B) Explicit Proposals With Minimal Alternative Minimum Tax (AMT) Fix. Bush's tax cut, as proposed, is a sham for millions of Americans because they would have their promised tax cut curtailed and even eliminated by the AMT. In addition, millions of families would have their tax preparation greatly complicated by the AMT. To even do a minimal fix for this would increase the cost of Governor Bush's tax proposal by more than $200 billion. Together with the tax cuts passed by Congress in 2000, that brings the total 9-year tax cut to $1.986 trillion, or $2.384 trillion with interest.

(C) Prescription Drugs. Governor Bush has clearly stated his support for helping lower-income seniors pay for prescription drugs or for a Breaux-Frist private insurance plan that is similar to the bill passed by the House. A responsible budget projection would include the cost of the House prescription drug plan, $155 billion over 10 years according to Congressional Budget Office (CBO) estimates. Our estimate of a reasonable accounting is conservative because it assumes that Governor Bush devotes no resources to a prescription drug benefit, no resources for needed provider restorations in Medicare, and no resources to extend the solvency of Medicare.

(D) Other Potential Expenditures. In addition, many budget experts have argued that the current budget baseline is not a realistic estimate of the available surplus because it assumes the expiration of many popular tax provisions, it assumes that millions of additional taxpayers will be thrown on the AMT, does not extend recent farm payments, and may provide unrealistically low growth in discretionary spending. These costs are not included in this analysis. To the degree that the Bush budget is already in deficit, these issues would make his problems even worse.

(3) On-budget Cost of Social Security Individual Accounts. The fiscal irresponsibility of Governor Bush's budget can be clearly documented without assuming any general revenues will be used to pay for Social Security individual accounts in the first 10 years. Governor Bush's plan to divert Social Security payroll taxes, by itself, would accelerate the insolvency of Social Security to 2023 or require cuts in guaranteed benefits that grow to 54 percent. To avoid either of these outcomes, Governor Bush would need to make substantial general revenue transfers that could further reduce the on-budget surplus or increase the on-budget deficit. This memo closes by describing the different ways that the Bush plan can be critiqued in terms of on-budget deficits, percentage cuts in benefits, and Social Security solvency. Regardless of the precise transfer policy Social Security individual accounts would divert over $1 trillion from debt reduction over the next decade.

B. Main Findings of the Analysis

The main findings of the analysis are:

(1) **Explicit proposals lead to $400 billion to $800 billion deficits.** Bush's explicit proposals alone create a nearly $400 billion on-budget deficit on CBO assumptions and nearly $800 billion on-budget deficit on OMB projections.

(2) **Likely Bush budget leads to $1.2 trillion to $1.6 trillion deficits.** Bush's likely proposals (including the Congressional Republican tax cuts passed this year and the minimal AMT fix) create a $1.2 trillion on-budget deficit under CBO assumptions and a $1.6 trillion on-budget deficit under OMB assumptions.

(3) **Bush would require non-defense discretionary spending cuts of 37 to 48 percent to balance the budget.** Dramatic cuts to domestic and international spending (non-defense discretionary spending) would be required to erase these deficits. Under Governor Bush's explicit proposals, the cuts would be as much as 16 percent under CBO assumptions and 26 percent under OMB assumptions. Under Governor Bush's likely proposals, the required cuts would be 37 percent under CBO assumptions and 48 percent under OMB assumptions.

(4) **Bush's likely budget would keep America $3 trillion in debt.** If these deep cuts in domestic spending are not made, then under Governor Bush's likely proposals, would spend virtually the entire unified surplus. As a result, debt held by the public would never fall below $2.9 trillion – rising to $3.1 trillion in 2010 and $3.3 trillion in 2012 under CBO assumptions. Under OMB assumptions the debt would rise. Even accounting only for Governor Bush's explicit budget proposals, the debt held by the public would be $2.3 trillion in 2010 under the more optimistic CBO assumptions compared to $0.5 trillion in 2010 under Vice President Gore's proposals.

(5) **Bush's budget is in deficit every year after 2003.** With just Governor Bush's explicit proposals there are on-budget deficits in each and every year starting in 2003; this is true on CBO or OMB assumptions. With the likely proposals, unified deficits emerge by 2007, with rising deficits and debt thereafter. Under Governor Bush's likely proposals, America would be back to on-budget deficits exceeding $200 billion by the end of the decade.

C. Summary Table

OVERVIEW OF BUSH TAX AND SPENDING PLANS ($billions)	CBO		OMB	
	2002-06	2002-10	2002-06	2002-10
On-budget Surplus*	**615**	**1,743**	**449**	**1,421**
Explicit Proposals				
Bush Tax Cut	460	1,321	460	1,321
Bush Health and Spending Proposals	229	452	229	452
Interest	74	363	87	431
Total Cost, with Interest	*763*	*2,135*	*776*	*2,204*
Resulting On-budget Surplus	**-148**	**-392**	**-327**	**-783**
Likely Proposals				
Added Congressional Tax Cuts	214	456	214	456
Minimal AMT Fix	51	210	51	210
Interest	37	149	43	177
Total Cost, with Interest	*301*	*815*	*308*	*843*
Resulting On-budget Surplus	**-450**	**-1,207**	**-634**	**-1,626**

* Non-Social Security, non-Medicare surplus. The 10-year surplus (2001-10) on this basis is $1.813 trillion on CBO and $1.470 trillion on OMB.

II – ANALYSIS OF GOVERNOR BUSH'S EXPLICIT PROPOSALS: $400 BILLION TO $800 BILLION DEFICITS

The Bush campaign has released 5-year cost estimates for its proposals covering 2002-06, the five year budget period of the next President. These include $460 billion of tax cuts (scoring was done by Congress' Joint Committee on Taxation), $50 billion for health proposals (mostly tax cuts to help pay for health insurance and long-term care), $25 billion for defense, and $42 billion for a variety of domestic programs. These numbers underfund the promises that Governor Bush has made on the campaign trail, especially in defense, but they are accepted for the purpose of this analysis.

Governor Bush has also proposed a substantial investment in missile defense without providing a cost estimate. The Bush campaign has said that a cost estimate would need to wait until after he was elected and was able to work with the Pentagon on developing a specific proposal. Governor Bush, however, has stated his support for a missile defense system that would be nationwide, involve space-based interception, and coordinated interception at every stage from missile launch to re-entry. A conservative estimate of the cost of this program is $200 billion over 9 years. This number is consistent with the estimates of numerous independent analysts that have been quoted in the media. The *New York Times* (6/30/00), for instance, wrote that the Governor Bush's missile defense proposals would cost "hundreds of billions of dollars."

The Bush campaign sometimes presents the cost of his plans from 2002-10, which they describes as the "10 year" cost even though it only covers 9 years. His tax cut, for instance, begins in 2002 and costs $1.3 trillion from 2002-10, or $1.6 trillion with interest loss. Since the tax cut costs $233 billion in 2010 alone, adding another year would bring the 10-year cost (2002-11) to about $1.6 trillion, or $1.9 trillion with interest loss. In order to maintain maximum consistency with the Bush campaign and numbers that are generally reported in the press, this memo examines two periods: the 5 years from 2002-06 and the 9 years from 2002-10.[1] The analysis is consistent in comparing cost estimates for that period to surplus projections for that period.

This analysis also assumes that the on-budget surplus excludes the Social Security and Medicare surpluses. The Vice President proposed and you endorsed the idea of taking Medicare surpluses off-budget. Virtually every member of the House and Senate has voted for Medicare lockboxes that include the principle that the Medicare surplus should be used for debt reduction and not be used to pay for tax cuts or spending increases. Governor Bush has not yet endorsed this principle. The statement that Governor Bush's proposals would spend, at least, hundreds of billions of the Medicare and Social Security surpluses would be unaffected by Governor Bush's position on this issue.

[1] The only 9-year number released by the Bush campaign is the JCT scoring of his tax cuts. The other 9-year cost estimates in this memo are based on uncontroversial and even conservative assumptions, like the assumption of no nominal growth in discretionary investments. For Governor Bush's health proposals the 9-year cost is based on a compilation of JCT and independent scoring of the different provisions.

The following table shows the cost and budget consequences of the explicit proposals that Governor Bush has made:

GOVERNOR BUSH'S EXPLICIT BUDGET PROPOSALS
($billions)

	CBO		OMB	
	2002-06	**2002-10**	**2002-06**	**2002-10**
On-budget Surplus	**615**	**1,743**	**449**	**1,421**
Tax Cut	460	1,321	460	1,321
Medicare Prescription Drugs	0	0	0	0
Health and Long-term Care	50	131	50	131
Defense	25	45	25	45
Missile Defense*	111	200	111	200
Education	14	26	14	26
Compassion / charity	13	23	13	23
Agriculture	4	8	4	8
Housing / IDAs	4	7	4	7
Environment	3	5	3	5
Crime	0	1	0	1
Gun Safety	1	1	1	1
Disabilities	2	3	2	3
Other Domestic Spending	2	4	2	4
Interest**	74	363	87	431
Total Cost, with Interest	*763*	*2,135*	*776*	*2,204*
Resulting On-budget Surplus	**-148**	**-392**	**-327**	**-783**
Memorandum: Required Cut in Domestic and International Spending Required to Balance				
Total Cut	-159	-340	-298	-619
Maximum Annual Cut Relative to FY2000	-16%		-26%	

* Estimate based on campaign description.
** OMB and CBO project different interest rates and thus the debt services costs differ on the two baselines.

Appendix Tables 2 and 3 show that there are on-budget deficits in each and every year beginning in 2003.

The 2002-10 deficit could be avoided by cutting non-defense discretionary spending by $340 billion from 2002-10. This would result in a maximum annual cut of 16 percent in all domestic and international programs relative to FY2000 level of spending adjusted for inflation. If some priority programs, like education, were protected the cuts in other programs would be even larger.

Under OMB assumptions, the deficit would be $783 billion from 2002-10. Closing this gap would require a $619 billion reduction in non-defense discretionary spending – or a maximum cut of 26 percent below inflation.

III – ANALYSIS OF GOVERNOR BUSH'S LIKELY PROPOSALS: $1.2 TRILLION TO $1.6 TRILLION DEFICITS

In addition to Governor Bush's explicit and uncontroversial proposals, there are several likely proposals that would add substantially to the deficit in his tax and budget plans. This analysis specifically examines the impact of two of these: the tax cuts passed by the Republican Congress this year and the minimal fix to the Alternative Minimum Tax (AMT) problems that are greatly exacerbated by Governor Bush's proposed rate reductions. In addition, the deficit could rise still further if the cost of prescription drugs for seniors or other likely expenditures are taken into account.

A. Why Congressional Republican Tax Cuts Add $600 Billion of Deficits Under the Bush Plan

Governor Bush has proposed a tax cut that would cost $1.3 trillion over the 9 years. This year the Congress has passed tax cuts costing over $700 billion. You cannot simply add these two tax cuts together to find the combined cost because they include several common elements, like estate tax repeal and increasing the standard deduction / exemption for married couples. Therefore, we have calculated the amount of Republican Congressional tax cuts that go beyond – are in addition to – the Bush campaign tax cuts. The additional cost of such tax cuts come to $456 billion in 2002-10, which after accounting for debt service increases the drain on the surplus by $571 billion.[2] This brings the total 9-year cost of the tax cuts to $1.777 trillion, or $2.140 trillion with interest. This combination of tax cuts, without even including Governor Bush's other health or spending proposals, would substantially exceed the on-budget surplus.[3] These additional tax cuts, presented in more detail in Appendix Table 1, are the following:

- Increasing the width of the 15 percent bracket for married couples ($160 billion)
- EITC marriage penalty ($13 billion)
- Social Security benefit taxation ($117 billion)
- Pension / IRA limit increases ($52 billion)
- Telecommunications excise tax ($51 billion)
- Small business tax cuts ($27 billion)
- Affordable education ($21 billion)
- Taxpayer Bill of Rights ($7 billion)
- New Markets / Community Renewal ($20 billion)

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[2] Note this estimate is conservative – it excludes the *full* cost of some provisions passed by Congress, like AMT personal credits and the tax cuts in Patients Bill of Rights – even though these only partially overlap with Governor Bush's proposals.

[3] Note that the $2.1 trillion cost of the combination of the tax cuts passed by Congress this year and Bush tax cuts does not include tax cuts passed by the 106th Congress in 1999, like capital gains tax reductions and the repeal of the individual AMT. Together these would add at least another $224 billion to the cost of Governor Bush's tax cut, bringing the total drain on the surplus (including interest) to at least $2.4 trillion.

Governor Bush and his surrogates have already been very supportive of some of the Congressional policies; Governor Bush himself explicitly criticized Vice President Gore for his position on partial repeal of Social Security benefit taxation, even though this proposal is not in Governor Bush's $1.3 trillion tax cut.

Looking at it from the other side, Governor Bush's tax cuts would add over $1 trillion to the cost to the tax cuts passed by the Republican Congress. The main additions Governor Bush has proposed to the Congressional tax cuts are:

- Rate reduction ($727 billion)
- Child tax credit ($162 billion)
- Non-itemizers charitable deduction and other charity proposals ($80 billion)
- Permanent Research and Experimentation ($24 billion)

Notice that comparing the tax cuts passed by Congress this year and proposed by Governor Bush strongly supports OMB's analysis that the 106th Congress has spent the entire surplus. OMB's statement is based on the $1.8 trillion cost, with interest, of the tax cuts passed by the 106th Congress. Some have argued that this unfairly includes the tax cuts passed by Congress in 1999. But larger versions of many of these are in Bush's tax cut. For instance, the OMB analysis assumed $490 billion of rate reductions (from the H.R. 2488 as passed by the House in 1999), which is substantially less than the $727 billion of rate reductions proposed by Governor Bush.

B. Why a Minimal AMT Fix Adds At Least Another $250 Billion to Bush Budget Costs

Since the AMT is not indexed, and implicitly treats children as a tax shelter, it will affect an increasing number of middle-class families over the next decade, going from 1.3 million families today to 17 million by 2010 according to Treasury estimates. Bob Greenstein and others have argued that the cost of addressing this problem, $80 billion over 10 years, should be subtracted from realistic estimates of the available surplus.

Not only does Governor Bush not address this problem, he makes it substantially worse. Past tax changes have generally moved income tax rates and AMT rates in line with each other. Governor Bush, however, lowers income tax rates without lowering AMT rates. As a result, in 2010 most of the 17 million families already projected to be on the AMT will not see their taxes go down from Bush's proposed *rate* reductions (although they could see small benefits from other proposed tax cuts). Furthermore, millions more families will be pushed onto the AMT. This will substantially complicate their tax filing and offset much of the tax cut provided by the rate reductions.

It stretches credibility to believe that Bush's tax cuts would be implemented in a way that would substantially complicate tax filing for millions of families while not providing a rate reduction for most of the 17 million families on the AMT in 2010. Bush economic adviser Lawrence Lindsey has acknowledged this problem and indicated that they would like to fix it, but has said it would cost too much to do so given the current budget projections.[4] Just lowering

[4] Lawrence Lindsey in *Tax Notes* 1/24/00.

AMT rates in line with income tax rates, but not fixing the existing AMT problem, would add another $210 billion to the cost of Governor Bush's tax cuts, or $244 billion with interest.[5] Together with the tax cuts passed by Congress in 2000, that brings the total 9-year tax cut to $1.986 trillion, or $2.384 trillion with interest.

Adding Bush's explicit budget proposals to the tax cuts passed this year and the minimal AMT fix results in his raiding the Social Security and Medicare surpluses by $1.2 trillion to $1.6 trillion:

GOVERNOR BUSH'S LIKELY BUDGET PROPOSALS
($billions, not including potential Social Security transfers)

	CBO		OMB	
	2002-06	**2002-10**	**2002-06**	**2002-10**
On-budget Surplus	**615**	**1,743**	**449**	**1,421**
Bush Tax Cut	460	1,321	460	1,321
Bush Health and Spending Proposals	229	452	229	452
Added Congressional Tax Cuts from 2000	214	456	214	456
Minimal AMT Fix	51	210	51	210
Interest	111	512	130	608
Total Cost, with Interest	*1,065*	*2,950*	*1,084*	*3,047*
Resulting On-budget Surplus	**-450**	**-1,207**	**-634**	**-1,626**
Memorandum: Required Cut in Domestic and International Spending Required to Balance				
Total Cut	-410	-1,000	-565	-1,291
Maximum Annual Cut Relative to FY2000	-37%		-48%	

Appendix Tables 4 and 5 show that there are on-budget deficits in each and every year beginning in 2003. Under both OMB and CBO assumptions, America would once again see on-budget deficits in excess of $200 billion by the end of the decade.

The 2002-10 deficit could be avoided by cutting non-defense discretionary spending by $1 trillion from 2002-10. This would result in a maximum annual cut of 37 percent in all domestic and international programs relative to FY2000 level of spending adjusted for inflation. If some priority programs, like education, were protected the cuts in other programs would be even larger.

[5] Citizens for Tax Justice, 5/10/00.

Under Administration assumptions, the deficit would be $1.626 trillion from 2002-10. Closing this gap would require a $1.291 trillion reduction in non-defense discretionary spending – or a maximum annual cut of 48 percent below inflation.

C. Other Likely Expenditures Could Increase the Bush Deficit Still Further

Governor Bush has clearly stated his support for helping lower-income seniors pay for prescription drugs or for a Breaux-Frist private insurance plan that is similar to the bill passed by the House. Bush has indicated that he would pay for this expansion with savings elsewhere. This is extremely unlikely: either Governor Bush will do nothing for seniors in need of prescription drugs or he will have to pay a substantial cost. A responsible budget projection would include the cost of the House prescription drug plan, $155 billion over 10 years according to Congressional Budget Office (CBO) estimates. Even this probably understates the likely cost: according to CBO, less than half of seniors and people with disabilities who lack drug coverage today would purchase this plan.[6] This analysis, however, assumes that Governor Bush devotes no resources to a prescription drug benefit.

Moreover, although Governor Bush has incorrectly criticized Vice President Gore for cuts to Medicare providers (Vice President Gore's budget includes net provider restorations), the Bush budget provides no resources to ensure that providers can deliver quality care. Furthermore, most independent experts agree that solvency transfers should be a part of any plan to substantially extend the solvency of Medicare. This analysis again assumes that Governor Bush does not devote any resources to this purpose.

Many budget experts have argued that the current budget baseline is not a realistic estimate of the available surplus because it assumes the expiration of many popular tax provisions, it assumes that millions of additional taxpayers will be thrown on the AMT, does not extend recent farm payments, and may provide unrealistically low growth in discretionary spending. These costs are not included in this analysis. To the degree that the Bush budget is already in deficit, these issues would make his problems even worse.

Social Security individual accounts are also likely result in even larger on-budget deficits, an issue that is discussed in Section V.

IV – IMPACT ON THE DEBT

Making the reasonable assumption that domestic priorities are funded at the level required to keep pace with inflation, Governor Bush's likely budget plans would spend almost all of the *unified surplus* on CBO assumptions and run a *unified deficit* on OMB assumptions, leaving virtually nothing to pay down the debt held by the public. As a result, the debt held by the public, which is projected to be $3.2 trillion at the end of FY 2001 (the year before Governor Bush's proposals go into effect) would be virtually unchanged under his likely proposals. With the likely proposals, the unified surplus goes into deficit by 2007, with rising deficits and debt thereafter (see Appendix Tables 6 and 7). In 2012, when the America would be debt free under

[6] CBO, 6/28/00.

Vice President Gore's proposals, Governor Bush's likely proposals would drive the debt up to $3.3 trillion on CBO assumptions or $3.9 trillion under OMB assumptions.

Even Governor Bush's explicit proposals alone would spend more than three-quarters of this unified surplus, leaving less than one-quarter of the surplus for debt reduction. As a result, under these explicit proposals the debt at the end of the decade would be $2.3 trillion under CBO assumptions and $2.8 trillion under OMB assumptions. In 2012 the debt would be $2.0 trillion under CBO assumptions or $2.7 trillion under OMB assumptions.

In contrast, Vice President Gore's budget plan would devote nearly two-thirds of the unified surplus to debt reduction, paying the debt down to $0.5 trillion in 2010 under CBO assumptions and $0.9 trillion under OMB assumptions. Under either OMB or CBO assumptions, the Vice President's plan will pay down the debt by 2012.

EFFECT OF GOVERNOR BUSH'S PROPOSALS ON THE DEBT ($billions, 2002-10)	CBO	OMB
Unified Surplus*	**4,293**	**3,954**
Explicit Proposals		
Bush Tax Cut	1,321	1,321
Interest	249	295
Total Cost, with Interest	*1,569*	*1,616*
Bush Health and Spending Proposals	452	452
Interest	114	136
Total Cost, with Interest	*566*	*588*
2% Individual Accounts	952	952
Interest	239	285
Total Cost, with Interest	*1,191*	*1,237*
Total Cost of Explicit Proposals, with Interest	***3,327***	***3,441***
Unified Surplus for Debt Reduction	967	513
Percent of Surplus for Debt Reduction	23%	13%
Debt Held by the Public in 2010	**$2.3 trillion**	**$2.8 trillion**
Likely Proposals		
Added Congressional Tax Cuts and AMT fix	666	666
Interest	149	177
Total Cost of Likely Proposals, with Interest	*815*	*843*
Total Cost of all Proposals, with Interest	***4,142***	***4,284***
Unified Surplus for Debt Reduction	152	-330
Percent of Surplus for Debt Reduction	4%	-8%
Debt Held by the Public in 2010	**$3.1 trillion**	**$3.65 trillion**
Memorandum: Debt Under Vice President Gore's Plan		
Unified Surplus for Debt Reduction	2,786	2,471
Percent of Surplus for Debt Reduction	65%	62%
Debt Held by the Public in 2010	**$0.5 trillion**	**$0.9 trillion**

* From 2001-10 the unified surplus is $4.561 trillion under CBO assumptions and $4.193 trillion under OMB assumptions.

** Assumes 2 percent accounts starting in 2002.

V – SOCIAL SECURITY INDIVIDUAL ACCOUNTS

This analysis has not addressed the issue of Social Security privatization which would likely result in even larger on-budget deficits.

Governor Bush has not proposed an explicit Social Security policy, but his campaign has indicated that it plans to carve out a portion of the Social Security payroll tax and divert it into individual accounts. Bush aides have acknowledged that these accounts would likely be 2 percent of payroll, or about 16 percent of Social Security payroll tax revenue. This policy would divert $952 billion of payroll taxes from 2002-10, or $1.2 trillion with interest.[7] These costs would be drained from the unified surplus and diverted from debt reduction.

By itself, the $1.2 trillion cost would come out of the off-budget surplus and would reduce the Social Security trust fund. Draining this substantial sum from the Social Security trust fund would accelerate the insolvency of Social Security, making it go insolvent in 2023, instead of 2037 as projected under current law. To avoid this problem, Governor Bush would need to either make deep cuts in guaranteed benefits or transfer significant amounts from the general fund (the on-budget account) to the Social Security trust fund. These transfers (and the associated interest) would reduce the on-budget surplus or increase the on-budget deficit.

The scale of the necessary transfers depends on the policy that Governor Bush adopts. The following are five logical possibilities:

- **Insolvent in 2023: no on-budget cost.** Allow the trust fund to go insolvent in 2023. After this date substantial benefit cuts would be required. In 2023 payroll tax revenue would be sufficient to cover 60 percent of retirement and survivor's (OASI benefits). The proportion of benefits covered would fall to 51 percent in 2037. Thus for 14 years where seniors now get full benefits under this scenario there will be 40+ percent cuts.

- **54 percent benefit cuts: no on-budget cost.** This option makes cuts in guaranteed benefits for workers 54 and younger when the plan goes into effect. The benefit cuts would be phased in so that they were larger for workers who had more time to accumulate individual accounts. These cuts would grow to 54 percent for workers age 30 and under in 2002. With the individual accounts, the average reduction relative to current law would be 20 percent. This would ensure 75-year Social Security solvency with no cost to the on-budget account.[8] *Caveat: under current law or with your proposed interest savings transfers, you would also require cuts relative to current law in guaranteed benefits to extend solvency to 2075.*

- **Protect trust fund: $952 billion of transfers from 2002-10.** Make transfers equal to the individual accounts, i.e. $952 billion from 2002 to 2010. This proposal would hold the Social Security trust fund harmless, meaning that it would continue to go insolvent in 2037. The transfers involved would, however, increase the likely on-budget deficit from 2002-10 to $2.4 trillion on CBO and nearly $2.9 trillion on OMB. Over 75-years the transfers would have a net present value of $3 trillion, more than twice the transfers proposed in your budget.

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[7] See Center for Budget and Policy Priorities, 5/15/00 and Henry Aaron et. al, Century Foundation, 6/6/00.
[8] Henry Aaron, Alan Blinder, Alicia Munnell, and Peter Orszag, "Governor Bush's Individual Accounts Proposal: Implications for Retirement Benefits." Century Foundation, 6/6/00.

This is essentially the same as the on-budget cost associated with the Archer-Shaw Social Security plan which pays for 2 percent accounts with a tax credit, thus using on-budget resources for the accounts rather than depleting the Social Security trust fund. *We do not recommend emphasizing these $2+ trillion on-budget deficits. Although from a policy perspective, this is probably the best way to implement individual accounts, we believe it would be more effective to emphasize that Governor Bush's budget plans result in an on-budget deficit that likely exceeds $1 trillion without even making transfers to protect Social Security solvency and benefits.*

- **Feldstein plan: $167 billion of transfers from 2002-10.** Martin Feldstein has proposed a plan that has three elements: (1) it makes substantial transfers over 75-years ($3 trillion in net present value, more than twice the transfers in your proposal; this amount, by itself and without individual accounts, would be enough to solve Social Security's long-run problems); (2) it allows the Social Security trust fund to go bankrupt in 2031, allowing it to borrow from the Treasury until 2052 when Social Security becomes solvent again; and (3) three-quarters of the individual accounts are "clawed back" to the trust fund. Feldstein argues that this proposal is consistent with the Bush plan, although a campaign spokesman has denied that this is the case. The transfers in this plan are very backloaded, totaling only $167 billion in the first 9 years, but growing in nominal dollars to $4.6 trillion in 2075 alone (in contrast the transfers under your Social Security plan never grow above $260 billion and would end in 2050).[9] This plan would increase the on-budget deficits between 2002-10 reported above by about $200 billion.

- **Highly backloaded plan: no transfers from 2002-10.** Alternatively, Governor Bush could propose even more backloaded transfers that begin after 2010. This plan, however, would stretch credibility because it would be arguing that the $1.2 trillion cost of privatization in the first decade would all be paid for in the future. Since Governor Bush cannot afford any of these transfers in the first 10 years and since he has an expensive and backloaded tax cut, how would he be able to argue that he could afford these in the future? This plan would put Social Security – and the overall budget – on a very shaky footing.[10]

It in the absence of a specific plan, it is impossible to determine what these transfers would be. This analysis of the options makes it clear that Governor Bush would almost certainly have to propose substantial transfers in the first ten years. (Note that the pattern of transfers has no effect on the pay down of the debt held by the public.) The following shows the consequences of Bush's tax and budget plan, including the Congressional tax cuts and the minimal AMT fix, assuming that he proposes either full transfers along the lines of Archer-Shaw or backloaded transfers along the lines of Feldstein.

[9] Calculations based on results reported in Martin Feldstein and Andrew Samwick, "Allocating Payroll Tax Revenue to Personal Retirement Accounts to Maintain Social Security Benefits and the Payroll Tax Rate," 6/5/00.

[10] Note that these problems are logically different from the transfers in your plan which are part of a fiscally responsible plan to *add* money to Social Security, not an attempt to pay for a new proposal that costs over $1 trillion in the first decade.

GOVERNOR BUSH'S LIKELY BUDGET PROPOSALS, INCLUDING SOCIAL SECURITY TRANSFERS ($billions)

	CBO		OMB	
	2002-06	**2002-10**	**2002-06**	**2002-10**
OPTION 1: FULL TRANSFERS				
On-budget Surplus	**615**	**1,743**	**449**	**1,421**
Bush Tax Cut	460	1,321	460	1,321
Bush Health and Spending Proposals	229	452	229	452
Added Congressional Tax Cuts	214	456	214	456
Minimal AMT Fix	51	210	51	210
Social Security transfers	479	952	479	952
Interest	176	751	207	893
Total Cost, with interest	*1,608*	*4,142*	*1,639*	*4,284*
Resulting On-budget Surplus	**-993**	**-2,399**	**-1,189**	**-2,863**
Memorandum: Required Cut in Domestic and International Spending Required to Balance				
Total Cut	-889	-1,953	-1,044	-2,243
Maximum Annual Cut Relative to 2000	-66%		-76%	
OPTION 2: BACKLOADED FELDSTEIN TRANSFERS				
On-budget Surplus	**615**	**1,743**	**449**	**1,421**
Bush Tax Cut	460	1,321	460	1,321
Bush Health and Spending Proposals	229	452	229	452
Added Congressional Tax Cuts	214	456	214	456
Minimal AMT Fix	51	210	51	210
Social Security transfers	58	167	58	167
Interest	118	544	138	646
Total Cost, with interest	*1,129*	*3,149*	*1,149*	*3,252*
Resulting On-budget Surplus	**-514**	**-1,406**	**-700**	**-1,831**
Memorandum: Required Cut in Domestic and International Spending Required to Balance				
Total Cut	-468	-1,167	-623	-1,457
Maximum Annual Cut Relative to FY2000	-44%		-53%	

With the full transfers, the on-budget deficits are staggering: well over $2 trillion. Remedying these would require completely impossible cuts in domestic and international priorities of 66 to 76 percent.

With the Feldstein plan's highly backloaded transfers, the on-budget deficit would be from $1.4 trillion to $1.8 trillion – with the required non-defense discretionary cuts ranging from 44 percent on CBO assumptions to 53 percent on OMB assumptions.

VI – CONCLUSION

This analysis clearly shows that Governor Bush's tax and budget plans would represent an enormous reversal of the fiscal responsibility that has characterized the last seven and a half years. The result would be to take us off the path of substantial debt reduction, resulting in higher interest rates, higher mortgage payments for families, lower investment, and a weaker economy. This analysis has attempted to look at Governor Bush's tax and budget plans from a number of angles. Any of the responses they could make would put them in a very awkward position. For instance:

- The Bush campaign could argue that the Medicare surplus should not be protected for debt reduction but should instead be used to pay for spending or tax cuts. This would put them at odds with their party in Congress. Also, regardless of the definition of the on-budget surplus it is still true that the Bush budget substantially raids the Medicare and Social Security surpluses.

- The Bush campaign could argue that it plans to make drastic cuts in spending on domestic priorities. To be helpful to them, these cuts would need to be anywhere from around 16 percent to about 50 percent. These cuts would be both highly damaging to key programs as well as not very credible.

- The Bush campaign could argue that missile defense should not cost money because they do not have an explicit proposal yet – a statement that would completely lack credibility.

- The Bush campaign could argue that it is in favor of maintaining the current taxation of Social Security benefits, does not favor pension and IRA limit increases, and supports the maintenance of the telecommunications excise tax.

- The Bush campaign will have to defend the fact that its tax plan would substantially complicate taxes for millions of families and be a sham for more than 10 million families.

- On Social Security, the Bush campaign is caught between having to acknowledge large cuts in guaranteed benefits or having to acknowledge that the transfers needed to pay the transition costs would cause substantial on-budget deficits. This is a key point we must effectively smoke them out on.

- The Bush campaign will have to defend why, even under what is essentially their version of their budget, they only pay the debt down to $2.0 trillion in 2012, while Vice President Gore reduces it to $0.5 trillion.

APPENDIX

Tables

(1) COST OF TAX CUTS (2001-10, JCT estimates, $billions)

	House	Senate	Bush
Passed in 2000			
Estate Tax Repeal	105	105	236
Affordable Education	12[a]	21	4
Marriage Penalty – Deduction	72	72	88
Marriage Penalty – Rates	160	160	--
Marriage Penalty – EITC	13	13	--
AMT Personal Credits	47	47	(b)
Social Security Benefit Taxation	117	117[c]	--
Telecommunications Excise Tax	51	55[c]	--
Pension and IRA Limit Increase	52	18[d]	--
Small Business	19	27	--
Patients Bill of Rights	68	40	(e)
Taxpayer Bill of Rights	7	--	--
Double Child Tax Credit	--	--	162
Charity – non-itemizers and other proposals	--	--	80
New Markets / Community Renewal	20	--	--
Passed in 1999[f]			
Rate Reduction	490	332	727
Permanent R&E	--	24	24
Capital Gains, Individual and Corporate	91	34	--
AMT, Individual and Corporate	146	146	--
Interest Exemption on a Worldwide Basis	24	24	--
Extend Exemption for Subpart F AFI	6	6	--

a. Passed by House Ways and Means.
b. Mostly included in Governor Bush's proposal to double the child tax credit.
c. Passed as an amendment to estate tax repeal and then stripped from the bill before final passage.
d. Passed as part of the bankruptcy/minimum wage/small business bill.
e. Governor Bush has an estimated $131 billion of tax cuts for health care and long-term care that are not included in his $1.321 trillion tax cut. These partially overlap with the House and Senate bills.
f. Estimates adjust JCT scoring to produce the 2001-10 cost.

(2) GOVERNOR BUSH'S EXPLICIT BUDGET PROPOPOSALS – CBO SCORING ($billions)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2002-06	2002-10
On-budget Surplus	**86**	**103**	**114**	**132**	**180**	**223**	**254**	**301**	**350**	**615**	**1,743**
Bush Tax Cut	21	57	89	126	167	193	210	225	233	**460**	**1,321**
Health and Long-term Care	5	8	11	12	14	18	19	21	22	**50**	**131**
Defense	5	5	5	5	5	5	5	5	5	**25**	**45**
Missile Defense	22	22	22	22	22	22	22	22	22	**111**	**200**
Domestic Programs	8	8	8	8	8	8	8	8	8	**42**	**76**
Interest	2	6	13	21	33	47	62	80	99	**74**	**363**
Total Cost	*64*	*107*	*148*	*195*	*250*	*294*	*327*	*361*	*390*	***763***	***2,135***
Remaining On-budget Surplus	**22**	**-4**	**-34**	**-63**	**-70**	**-71**	**-73**	**-60**	**-40**	**-148**	**-392**
Memorandum: Required Cut in Domestic and International Spending Required to Balance											
Cut in Non-defense Discretionary	0	-4	-33	-59	-63	-60	-59	-42	-20	-159	-340
Cut Relative to FY2000	0%	-1%	-9%	-16%	-16%	-15%	-15%	-10%	-5%		

(3) GOVERNOR BUSH'S EXPLICIT BUDGET PROPOPOSALS – OMB SCORING ($billions)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2002-06	2002-10
On-budget Surplus	**67**	**68**	**81**	**95**	**139**	**179**	**215**	**261**	**316**	**449**	**1,421**
Bush Tax Cut	21	57	89	126	167	193	210	225	233	**460**	**1,321**
Health and Long-term Care	5	8	11	12	14	18	19	21	22	**50**	**131**
Defense	5	5	5	5	5	5	5	5	5	**25**	**45**
Missile Defense	22	22	22	22	22	22	22	22	22	**111**	**200**
Domestic Programs	8	8	8	8	8	8	8	8	8	**42**	**76**
Interest	2	7	15	25	39	55	74	96	119	**87**	**431**
Total Cost	*64*	*108*	*150*	*198*	*256*	*302*	*339*	*376*	*410*	***776***	***2,204***
Remaining On-budget Surplus	**3**	**-40**	**-70**	**-103**	**-117**	**-123**	**-124**	**-115**	**-93**	**-327**	**-783**
Memorandum: Required Cut in Domestic and International Spending Required to Balance											
Total Cut	0	-39	-65	-94	-101	-100	-94	-77	-50	-298	-619
Cut Relative to FY2000	0%	-11%	-18%	-25%	-26%	-25%	-23%	-19%	-12%		

(4) GOVERNOR BUSH'S LIKELY BUDGET PROPOPOSALS – CBO SCORING ($billions, excluding Social Security transfers)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2002-06	2002-10
On-budget Surplus	**86**	**103**	**114**	**132**	**180**	**223**	**254**	**301**	**350**	**615**	**1,743**
Bush Tax Cut	21	57	89	126	167	193	210	225	233	**460**	**1,321**
Bush Health and Spending Proposals	41	43	47	48	50	54	55	56	58	**229**	**452**
Added Congressional Tax Cuts	29	37	45	49	54	57	59	62	64	**214**	**456**
Minimal AMT Fix	6	14	5	10	17	29	33	39	58	**51**	**210**
Interest	4	10	19	31	47	65	87	111	138	**111**	**512**
Total Cost, with Interest	*101*	*161*	*205*	*263*	*335*	*399*	*444*	*493*	*551*	***1,065***	***2,950***
Remaining On-budget Surplus	**-15**	**-58**	**-91**	**-131**	**-155**	**-176**	**-190**	**-192**	**-201**	**-450**	**-1,207**
Memorandum: Required Cut in Domestic and International Spending Required to Balance											
Total Cut	-15	-56	-84	-120	-136	-148	-153	-145	-144	-410	-1,000
Cut Relative to FY2000	-4%	-15%	-23%	-31%	-35%	-37%	-37%	-35%	-34%		

(5) GOVERNOR BUSH'S LIKELY BUDGET PROPOPOSALS – OMB SCORING ($billions, excluding Social Security transfers)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2002-06	2002-10
On-budget Surplus	**67**	**68**	**81**	**95**	**139**	**179**	**215**	**261**	**316**	**449**	**1,421**
Bush Tax Cut	21	57	89	126	167	193	210	225	233	**460**	**1,321**
Bush Health and Spending Proposals	41	43	47	48	50	54	55	56	58	**229**	**452**
Added Congressional Tax Cuts	29	37	45	49	54	57	59	62	64	**214**	**456**
Minimal AMT Fix	6	14	5	10	17	29	33	39	58	**51**	**210**
Interest	4	12	23	37	55	77	103	132	165	**130**	**608**
Total Cost, with Interest	*101*	*162*	*208*	*269*	*343*	*411*	*460*	*514*	*578*	***1,084***	***3,047***
Remaining On-budget Surplus	**-34**	**-95**	**-127**	**-174**	**-204**	**-231**	**-245**	**-253**	**-262**	**-634**	**-1,626**
Memorandum: Required Cut in Domestic and International Spending Required to Balance											
Total Cut	-33	-90	-116	-154	-173	-187	-187	-179	-173	-565	-1,291
Cut Relative to FY2000	-9%	-25%	-32%	-41%	-45%	-48%	-46%	-44%	-41%		

(6) EFFECT OF GOVERNOR BUSH'S PROPOSALS ON THE DEBT – CBO SCORING ($billions)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2002-06	2002-10
Unified Surplus	**312**	**345**	**369**	**402**	**469**	**523**	**565**	**625**	**685**	**1,897**	**4,293**
Explicit Proposals											
Bush Tax Cut	21	57	89	126	167	193	210	225	233	**460**	**1,321**
Bush Health and Spending Proposals	41	43	47	48	50	54	55	56	58	**229**	**452**
2% Individual Accounts	87	91	95	100	105	110	115	121	127	**479**	**952**
Interest	5	13	25	39	57	78	101	127	156	**140**	**602**
Total Cost, with Interest	*154*	*205*	*256*	*313*	*379*	*435*	*482*	*529*	*574*	***1,307***	***3,327***
Remaining Unified Surplus	**158**	**140**	**113**	**89**	**90**	**88**	**83**	**95**	**111**	**590**	**967**
Debt Held by the Public	**3,008**	**2,881**	**2,780**	**2,702**	**2,622**	**2,542**	**2,466**	**2,377**	**2,273**		
Likely Proposals											
Added Congressional Tax Cuts	29	37	45	49	54	57	59	62	64	**214**	**456**
Minimal AMT Fix	6	14	5	10	17	29	33	39	58	**51**	**210**
Interest	2	4	7	10	14	19	24	31	38	**37**	**149**
Total Cost, with Interest	*37*	*54*	*56*	*69*	*85*	*105*	*116*	*132*	*160*	***301***	***815***
Remaining Unified Surplus	**121**	**85**	**57**	**20**	**5**	**-17**	**-33**	**-37**	**-50**	**288**	**152**
Debt Held by the Public	**3,059**	**2,986**	**2,942**	**2,932**	**2,937**	**2,962**	**3,002**	**3,045**	**3,102**		
Memorandum: Vice President Gore's Proposal											
Remaining Unified Surplus	**235**	**261**	**276**	**287**	**305**	**317**	**333**	**367**	**405**	**1,364**	**2,786**
Debt Held by the Public	**2,957**	**2,708**	**2,444**	**2,168**	**1,872**	**1,563**	**1,236**	**876**	**478**		

Note: The debt held by the public at the end of FY2001 is projected to be $3.158 trillion by CBO.

(7) EFFECT OF GOVERNOR BUSH'S PROPOSALS ON THE DEBT – OMB SCORING ($billions)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2002-06	2002-10
Unified Surplus	**279**	**295**	**324**	**360**	**422**	**479**	**532**	**595**	**670**	**1,679**	**3,954**
Explicit Proposals											
Bush Tax Cut	21	57	89	126	167	193	210	225	233	**460**	**1,321**
Bush Health and Spending Proposals	41	43	47	48	50	54	55	56	58	**229**	**452**
2% Individual Accounts	87	91	95	100	105	110	115	121	127	**479**	**952**
Interest	5	15	29	46	68	93	121	152	187	**164**	**716**
Total Cost, with Interest	*154*	*207*	*260*	*320*	*389*	*450*	*501*	*554*	*605*	***1,331***	***3,441***
Remaining Unified Surplus	**125**	**88**	**63**	**40**	**32**	**29**	**30**	**40**	**65**	**348**	**513**
Debt Held by the Public	**3,090**	**3,016**	**2,964**	**2,935**	**2,915**	**2,897**	**2,878**	**2,848**	**2,793**		
Likely Proposals											
Added Congressional Tax Cuts	29	37	45	49	54	57	59	62	64	**214**	**456**
Minimal AMT Fix	6	14	5	10	17	29	33	39	58	**51**	**210**
Interest	2	5	8	12	17	22	29	37	46	**43**	**177**
Total Cost, with Interest	*37*	*55*	*58*	*71*	*87*	*109*	*121*	*138*	*168*	***308***	***843***
Remaining Unified Surplus	**87**	**33**	**6**	**-30**	**-55**	**-80**	**-90**	**-98**	**-103**	**41**	**-330**
Debt Held by the Public	**3,141**	**3,122**	**3,128**	**3,169**	**3,236**	**3,327**	**3,428**	**3,537**	**3,650**		
Memorandum: Vice President Gore's Proposal											
Remaining Unified Surplus	**205**	**216**	**234**	**246**	**262**	**279**	**305**	**336**	**386**	**1,164**	**2,471**
Debt Held by the Public	**3,033**	**2,830**	**2,609**	**2,374**	**2,123**	**1,856**	**1,561**	**1,237**	**860**		

Note: The debt held by the public at the end of FY2001 is projected to be $3.201 trillion by OMB.

5-27-98

Chuck -

Your view on this going to the President?

Phil

5/27

THE WHITE HOUSE

WASHINGTON

June 1, 1998

MR. PRESIDENT:

I've been holding this in my office until Chuck Ruff reviewed it.

Phil Caplan

]Oral today with buck slip.

MR PRESIDENT:

I've been holding this in my office until Chuck Ruff reviewed it.

Phil Caplan

Carol- OK to send to RM?

Phil - Looks OK to me.

CR

'98 JUN 1 AM10:49

264842

THE WHITE HOUSE

WASHINGTON

May 21, 1998

MEMORANDUM TO THE PRESIDENT

FROM: **SIDNEY BLUMENTHAL** SB

SUBJECT: **ED YODER**

Our mutual friend Ed Yoder has sent me two pieces he has written on executive privilege, which are brief but cogent. He is one of the few people I've encountered recently who truly understands the dimension of the issue.

FAX: FROM ED YODER

FOR: SID BLUMENTHAL

TELEPHONE NUMBER 202-456-1213

Date 5/15/98

Respond to: 703-751-9022

Number of pages including cover 5

Sid -
Good to hear from you. Here, for
your own <u>confidential</u> info (& that of the
President if interested) are 2 pronouncements
on the issue of intent to you. One is a
letter to the Post, whose destiny I don't
know. The other is a <u>draft</u> of a column
I write regularly for a publication in NC.
Please treat these as private. Good luck —

ED

PRIVATE & CONFIDENTIAL
— to Sid &/or the President

Edwin M. Yoder Jr./4001 Harris Place/Alexandria, Virginia 22304

DETERMINED TO BE AN ADMINISTRATIVE MARKING INITIALS: MJ DATE: 2/5/20
2017-0996-S

May 9, 1998

To the Editor:

It is heartening to see the Post bring historical perspective to the executive privilege dispute ("Eroding Executive Privilege," May 8). But having noted your own endorsement of an expansive executive privilege doctrine in 1954 (when President Eisenhower was battling Sen. Joe McCarthy's marauding of executive agencies, including the Army Signal Corps labs at Fort Monmouth), you then insinuate that President Clinton is misusing it and risking its diminishment. I am reminded of the familiar children's ditty:

Mother, may I go out to swim?
Yes, my darling daughter –
Hang your clothes on a hickory limb,
But don't go near the water!

Until we know the details, it is hard to judge the validity of President Clinton's claim. Even so, one can see where timid strict constructionists are headed. Your premise seems to be the usual facile distinction between what is "personal" (hence, tending to what you call the "personal embarrassment" of the chief executive), or political on one hand, and what is strictly "public business" or "an act of state" on the other. This distinction is much too facile.

Chronic detractors of "politicians" and "the political class" would have us believe that the political arts, including many now frowned upon by purists, are alien to the processes of government. So they may be in autocratic systems whose jefes and caudillos need not worry about anything so gross as public opinion. In a democratic system of presidential government, however, it is not only necessary but imperative that a president weigh even issues latent with possible personal "embarrassment" in the light of his duty to govern and to enforce the laws. And in doing so, he surely has a right to private consultation.

In that light, the Post of 1954 was closer to the core of the matter than the Post now. A conception of executive privilege assuming this easy distinction between the personal and the governmental, and which accordingly strips a president of the privilege of unimpeded private advice of his own choosing ("in his judgment," as your 1954 editorialist wisely put

it) is too cramped as to be of real value.

In fact, it is conceivable that should he decline to accept Judge Johnson's (and Mr. Starr's) stinted view of executive privilege, and seek its reversal in higher courts, Mr. Clinton may strengthen the presidency. Of course, it's always a gamble to appeal, given the shallowness of recent federal appellate rulings on such questions. But a privilege too fragile to be wagered is of limited value in the first place. In U. S. v. Nixon, the Supreme Court did indeed deny the use of executive privilege to conceal criminal evidence. But having recognized for the first time that such a privilege exists, could it really have meant to render it too flimsy to risk in a courtroom?

Edwin M. Yoder Jr.

EDWIN M. YODER JR.

Alexandria
703-751-9022 or 540-464-6381

DRAFT -
CONFIDENTIAL

The polls suggest that millions of people beyond the capital beltway manage to contain their anxiety about Washington's interminable sex and crime melodrama. From New York Island to the golden gate, good citizens seem to get through whole days -- even months -- without knitting their brows over executive privilege and such: a reassuring symptom, if you ask me, of a superior sense of proportion.

The only question is whether, in their serenity, Americans may be ignopring a process that could someday affect their destiny, and not for the better. That process is the whittling down, not only of presidents, subject as they are to happy hunting by the press and special prosecutors, but of the presidency itself -- the office. The process is traceable, in its present phase, to the collapse of the Soviet Union nearly a decade ago. Before that, presidents, as custodians of the nuclear deterrent, were central players in a mortal geopolitical confrontation that could turn deadly at any moment. We cared, really cared, who was president and what his powers were and those powers were necessarily vast. To quibble then over the personal legal standing of an official who could blow up the planet at the push of a button -- to treat him as a cipher to be hailed from courtroom to courtroom, a sort of republican version of the king of Denmark -- would have been dismissed as a grotesque impertinence. And rightly so.

But with the world presumably safer, presidents are resized to mortal dimensions and the "imperial presidency" (as Arthur Schlesinger Jr. famously called it a bare 30 years ago) but a vague memory, we luxuriate in presidential miniaturization.

Which brings me again, to the representative issue of executive privilege. It isn't the only privilege at issue in Washington today, merely the most defiant of resolution in terms of the arid and superficial legalism now in favor. There is also, for instance, the claim of privilege now being asserted by the Secret Service, whose agents Starr foolishly seeks to subpoena as sometime Peeping Toms at the White House. Everyone except special prosecutors and Dan Quayle (that great constitutional thinker) can surely see the lunacy of trying to turn the Secret Service into sexual voyeurs. Since the likes of Oswald, Bremer, Fromme, Hinckley and others enjoy taking unpredictable potshots at presidents and presidential candidates, any development that impairs the necessary propinquity between presidents and their protectors is mortally dangerous.

Such dangers do not, of course, lurk -- not obviously, at least -- in the exercise

of executive privilege, a doctrine holding that the conversations of a president with his intimate advisers enjoy a broad expectation of privacy, the better to promote candor and wisdom in the Oval Office. In U. S. v. Nixon, the famous 1974 case in which the Supreme Court first acknowledged the existence of such a privilege, it was ruled that Richard Nixon could not withhold damning evidence of his crimes. Otherwise, however, the Court left the scope of the privilege unclear. Now, in the Starr-Clinton confrontation, Starr wants to question confidential presidential advisers before his grand jury and, accordingly, we approach another fork in the road. So far, the signs aren't promising. Judge Norma Hollowell Johnson has ruled that Starr may insist on the testimony at issue; the president is expected to appeal.

The conventional wisdom in Washington is that a president may invoke executive privilege to shield conversations about "national security" and perhaps other clear matters of state, but not otherwise. Not to spare him "political embarrassment," so pronounced The Washington Post, that reliable fount of conventional wisdom, the other day.

The courts may take the Post's advice; they often do, alas. But let us be clear about what is at stake. Under the conventional wisdom lurks the facile, and probably false, distinction between "politics" and government. From the earliest days the American presidency has been an office in which political skills, the capacity to muster and maintain working majorities, ~~has~~ have been integrally related to the capacity to govern. Only tenth-rate jailhouse lawyers, and editorialists for the Post, claim to see where the seam is. It follows that if you deprive a president of the expectation that his political consultations are private, you strip him of a vital resource in the exercise of power. Indeed, the present tendency to draw sharp distinctions between politics (bad) and government (good), here as elsewhere, is but another aspect of that ongoing impulse to criminalize normal politics that underlies the "independent counsel" mania.

One of these days, perhaps long after Bill Clinton has handed along a minaturized presidency to some hapless successor, another great emergency will come along and the vigorous presidential leadership without which our system is a drifting, rudderless boat, will be demanded. If present trends continue, we may find then that the office has been stealthily crippled while we were out to lunch and we shall be properly outraged -- too late.

CONFIDENTIAL

SID - A LATER DRAFT OF
THE PIECE I SENT YESTERDAY

Millions of people outside the beltway manage very handily to contain their anxiety about Washington's continuing star attraction, the interminable sex-and-crime melodrama. From New York island to the Golden Gate, good citizens get through whole days, even months, without knitting their brows for a nanosecond about executive privilege and such -- the reassuring symptom of a superior sense of proportion.

But are Americans, in this happy serenity, ignoring a process that could someday affect their destiny for the worse? That process is the whittling down not only of presidents, vulnerable as they are these days to random hunting by the press and special investigators, but of the presidency itself.

The process began in its present phase with the sudden collapse of the Soviet Union nearly a decade ago. With that collapse, presidents forfeited their primacy as key players in a nuclear confrontation that could turn deadly. A cold war president was the custodian of Armageddon, armed with almost unimaginable power. When he could blow up the planet at whim, to quibble over his personal legal standing -- to treat him as a cipher to be hailed from one piddling deposition to another, a sort of republican version of the King of Denmark -- would have been dismissed as a grotesque impertinence.

We've changed all that now. Presidents are gleefully resized to mortal dimensions and the "imperial presidency" (as Arthur Schlesinger Jr. famously called it a bare 30 years ago) is a vague memory. We luxuriate, we wallow, in presidential miniaturization. Honey, cry the Lilliputians of Washington in their foolish excitement, we're shrinking Gulliver!

Of course executive privilege isn't the only contested privilege bearing on the fate and power of the presidency. The Secret Service is resisting Special Prosecutor Kenneth Starr's attempt to recast its agents as peeping Toms. Everyone except Starr and former Vice President Dan Quayle (that great constitutional thinker) can see the lunacy of turning the Secret Service into voyeurs, inasmuch as the shabby likes of Oswald, Bremer, Fromme, Hinckley and others take unpredictable potshots at presidents and presidential candidates. Any development that impairs the closeness and trust between presidents and their protectors is extremely dangerous.

Such obvious dangers do not lurk, at first glance, in the exercise of executive

privilege -- a doctrine holding that a president's confidential consultations with close advisers enjoy a broad expectation of privacy, the better to promote wise decision making. Though some historians think George Washington invented it in his grueling contest with the House of Representatives over the hated Jay Treaty, the idea had hardly been heard of -- by that name, anyway -- until 1954, when President Eisenhower invoked it to protect sensitive executive agencies (among them, the Army Signal Corps labs at Fort Monmouth, N. J., then designing top-secret guidance systems for ballistic missiles) against the reckless marauding of Sen. Joe McCarthy.

At least one distinguished constitutional scholar of a strict constructionist bent, Raoul Berger of Harvard, has dismissed the privilege as "constitutional myth," nowhere explicitly provided for by the framers, a dubious inference from the separation of powers doctrine. But in the Nixon tapes case of 1974, the Supreme Court granted it explicit standing, while saying it could not be used to conceal criminal evidence and otherwise declining to define its scope. Now in the Starr-Clinton clash, Starr is hailing presidential confidants like Sidney Blumenthal and Bruce Lindsay before his grand jury to be questioned, on the excuse that they may have heard something bearing on the Lewinsky matter. The president has invoked the privilege to block their testimony. Thus we approach another fork in the road, and a preliminary lower-court ruling has gone against the president.

The conventional wisdom is that while a president may invoke the privilege to protect the confidentiality of conversations about "national security" and other issues of state, he may not invoke it to spare himself "political embarrassment."

Behind the conventional wisdom, however, lurks a familiar but facile distinction between "politics" and government. The American presidency has always been an office in which political skills were essential to mastery -- especially in coping, as Lincoln and the second Roosevelt had to do, with great emergencies. Deprive presidents of the expectation that their political consultations are private, and you impair a key resource in governing itself, for unlike dictators presidents must be mindful of public opinion -- they can't shoot their critics and foes. Indeed, the tendency to draw hard-line distinctions between politics (bad) and government (good) is not only historical nonsense; it is but another aspect of that foolish impulse to criminalize normal politics that underlies the whole investigative mania.

We can drift along for a while with weak presidents; it's happened before. But one of these days -- it may be long after Bill Clinton has handed a miniaturized

presidency to some hapless successor -- some great emergency will demand the vigorous presidency without which American government is a rudderless boat. Can an office shriveled to Lilliputian dimensions provide it? Or shall we find too late that while we slept the miniaturizers have done, and overdone, their insidious work?

Should not go
per Phil

DRAFT - CONFIDENTIAL

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THE WHITE HOUSE

WASHINGTON

May 21, 1998

'98 MAY 21 PM4:41

MEMORANDUM TO THE PRESIDENT

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FAX: FROM ED YODER

FOR: SID BLUMENTHAL

TELEPHONE NUMBER 202-456-1213

Date 5/15/98

Respond to: 703-751-9022

Number of pages including cover 5

Sid -
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your own confidential info (+ that of the
President if interested) are 2 pronouncements
on the issue of interest to you. One is a
letter to the Post, whose destiny I don't
know. The other is a draft of a column
I write regularly for a publication in NC.
Please treat these as private. Good luck —

ED

FROM : YODER HOME OFFICE PHONE NO. : 703 751 9022 May. 15 1998 04:06PM P2

PRIVATE & CONFIDENTIAL
— to Fred &/or the President

DETERMINED TO BE AN ADMINISTRATIVE
MARKING INITIALS: MM DATE: 2/5/1
2019-0490-S

Edwin M. Yoder Jr./4001 Harris Place/Alexandria, Virginia 22304

May 9, 1998

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Edwin M. Yoder

EDWIN M. YODER JR.

Alexandria
703-751-9022 or 540-464-6381

DRAFT -
CONFIDENTIAL

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Of course executive privilege isn't the only contested privilege bearing on the fate and power of the presidency. The Secret Service is resisting Special Prosecutor Kenneth Starr's attempt to recast its agents as peeping Toms. Everyone except Starr and former Vice President Dan Quayle (that great constitutional thinker) can see the lunacy of turning the Secret Service into voyeurs, inasmuch as the shabby likes of Oswald, Bremer, Fromme, Hinckley and others take unpredictable potshots at presidents and presidential candidates. Any development that impairs the closeness and trust between presidents and their protectors is extremely dangerous.

Such obvious dangers do not lurk, at first glance, in the exercise of executive

privilege -- a doctrine holding that a president's confidential consultations with close advisers enjoy a broad expectation of privacy, the better to promote wise decision making. Though some historians think George Washington invented it in his grueling contest with the House of Representatives over the hated Jay Treaty, the idea had hardly been heard of -- by that name, anyway -- until 1954, when President Eisenhower invoked it to protect sensitive executive agencies (among them, the Army Signal Corps labs at Fort Monmouth, N. J., then designing top-secret guidance systems for ballistic missiles) against the reckless marauding of Sen. Joe McCarthy.

At least one distinguished constitutional scholar of a strict constructionist bent, Raoul Berger of Harvard, has dismissed the privilege as "constitutional myth," nowhere explicitly provided for by the framers, a dubious inference from the separation of powers doctrine. But in the Nixon tapes case of 1974, the Supreme Court granted it explicit standing, while saying it could not be used to conceal criminal evidence and otherwise declining to define its scope. Now in the Starr-Clinton clash, Starr is hailing presidential confidants like Sidney Blumenthal and Bruce Lindsay before his grand jury to be questioned, on the excuse that they may have heard something bearing on the Lewinsky matter. The president has invoked the privilege to block their testimony. Thus we approach another fork in the road, and a preliminary lower-court ruling has gone against the president.

The conventional wisdom is that while a president may invoke the privilege to protect the confidentiality of conversations about "national security" and other issues of state, he may not invoke it to spare himself "political embarrassment."

Behind the conventional wisdom, however, lurks a familiar but facile distinction between "politics" and government. The American presidency has always been an office in which political skills were essential to mastery -- especially in coping, as Lincoln and the second Roosevelt had to do, with great emergencies. Deprive presidents of the expectation that their political consultations are private, and you impair a key resource in governing itself, for unlike dictators presidents must be mindful of public opinion -- they can't shoot their critics and foes. Indeed, the tendency to draw hard-line distinctions between politics (bad) and government (good) is not only historical nonsense; it is but another aspect of that foolish impulse to criminalize normal politics that underlies the whole investigative mania.

We can drift along for a while with weak presidents; it's happened before. But one of these days -- it may be long after Bill Clinton has handed a miniaturized

presidency to some hapless successor -- some great emergency will demand the vigorous presidency without which American government is a rudderless boat. Can an office shriveled to Lilliputian dimensions provide it? Or shall we find too late that while we slept the miniaturizers have done, and overdone, their insidious work?

COS

THE WHITE HOUSE

WASHINGTON

'98 MAY 21 PM4:43

May 21, 1998

MEMORANDUM TO THE PRESIDENT

FROM: **SIDNEY BLUMENTHAL** SB

SUBJECT: **ED YODER**

Our mutual friend Ed Yoder has sent me two pieces he has written on executive privilege, which are brief but cogent. He is one of the few people I've encountered recently who truly understands the dimension of the issue.

FAX: FROM ED YODER

FOR: SID BLUMENTHAL

TELEPHONE NUMBER 202-456-1213

Date 5/15/98

Respond to: 703-751-9022

Number of pages including cover 5

Sid -

Good to hear from you. Here, for your own confidential info (& that of the President if interested) are 2 pronouncements on the issue of intent to you. One is a letter to the Post, whose destiny I don't know. The other is a draft of a column I write regularly for a publication in NC. Please treat these as private. Good luck —

ED

FROM : YODER HOME OFFICE PHONE NO. : 703 751 9022 May. 15 1998 04:06PM P2

PRIVATE & CONFIDENTIAL
— to Sid &/or the President

DETERMINED TO BE AN ADMINISTRATIVE MARKING INITIALS: M DATE: 4/5/10

Edwin M. Yoder Jr./4001 Harris Place/Alexandria, Virginia 22304

2012-0990-S

May 9, 1998

To the Editor:

It is heartening to see the Post bring historical perspective to the executive privilege dispute ("Eroding Executive Privilege," May 8). But having noted your own endorsement of an expansive executive privilege doctrine in 1954 (when President Eisenhower was battling Sen. Joe McCarthy's marauding of executive agencies, including the Army Signal Corps labs at Fort Monmouth), you then insinuate that President Clinton is misusing it and risking its diminishment. I am reminded of the familiar children's ditty:

Mother, may I go out to swim?
Yes, my darling daughter –
Hang your clothes on a hickory limb,
But don't go near the water!

Until we know the details, it is hard to judge the validity of President Clinton's claim. Even so, one can see where timid strict constructionists are headed. Your premise seems to be the usual facile distinction between what is "personal" (hence, tending to what you call the "personal embarrassment" of the chief executive), or political on one hand, and what is strictly "public business" or "an act of state" on the other. This distinction is much too facile.

Chronic detractors of "politicians" and "the political class" would have us believe that the political arts, including many now frowned upon by purists, are alien to the processes of government. So they may be in autocratic systems whose jefes and caudillos need not worry about anything so gross as public opinion. In a democratic system of presidential government, however, it is not only necessary but imperative that a president weigh even issues latent with possible personal "embarrassment" in the light of his duty to govern and to enforce the laws. And in doing so, he surely has a right to private consultation.

In that light, the Post of 1954 was closer to the core of the matter than the Post now. A conception of executive privilege assuming this easy distinction between the personal and the governmental, and which accordingly strips a president of the privilege of unimpeded private advice of his own choosing ("in his judgment," as your 1954 editorialist wisely put

it) is too cramped as to be of real value.

In fact, it is conceivable that should he decline to accept Judge Johnson's (and Mr. Starr's) stinted view of executive privilege, and seek its reversal in higher courts, Mr. Clinton may strengthen the presidency. Of course, it's always a gamble to appeal, given the shallowness of recent federal appellate rulings on such questions. But a privilege too fragile to be wagered is of limited value in the first place. In U. S. v. Nixon, the Supreme Court did indeed deny the use of executive privilege to conceal criminal evidence. But having recognized for the first time that such a privilege exists, could it really have meant to render it too flimsy to risk in a courtroom?

Edwin M. Yoder Jr.

EDWIN M. YODER JR.

Alexandria
703-751-9022 or 540-464-6381

DRAFT - CONFIDENTIAL

The polls suggest that millions of people beyond the capital beltway manage to contain their anxiety about Washington's interminable sex and crime melodrama. From New York Island to the golden gate, good citizens seem to get through whole days -- even months -- without knitting their brows over executive privilege and such: a reassuring symptom, if you ask me, of a superior sense of proportion.

The only question is whether, in their serenity, Americans may be ignopring a process that could someday affect their destiny, and not for the better. That process is the whittling down, not only of presidents, subject as they are to happy hunting by the press and special prosecutors, but of the presidency itself -- the office. The process is traceable, in its present phase, to the collapse of the Soviet Union nearly a decade ago. Before that, presidents, as custodians of the nuclear deterrent, were central players in a mortal geopolitical confrontation that could turn deadly at any moment. We cared, really cared, who was president and what his powers were and those powers were necessarily vast. To quibble then over the personal legal standing of an official who could blow up the planet at the push of a button -- to treat him as a cipher to be hailed from courtroom to courtroom, a sort of republican version of the king of Denmark -- would have been dismissed as a grotesque impertinence. And rightly so.

But with the world presumably safer, presidents are resized to mortal dimensions and the "imperial presidency" (as Arthur Schlesinger Jr. famously called it a bare 30 years ago) but a vague memory, we luxuriate in presidential miniaturization.

Which brings me again, to the representative issue of executive privilege. It isn't the only privilege at issue in Washington today, merely the most defiant of resolution in terms of the arid and superficial legalism now in favor. There is also, for instance, the claim of privilege now being asserted by the Secret Service, whose agents Starr foolishly seeks to subpoena as sometime Peeping Toms at the White House. Everyone except special prosecutors and Dan Quayle (that great constitutional thinker) can surely see the lunacy of trying to turn the Secret Service into sexual voyeurs. Since the likes of Oswald, Bremer, Fromme, Hinckley and others enjoy taking unpredictable potshots at presidents and presidential candidates, any development that impairs the necessary propinquity between presidents and their protectors is mortally dangerous.

Such dangers do not, of course, lurk -- not obviously, at least -- in the exercise

of executive privilege, a doctrine holding that the conversations of a president with his intimate advisers enjoy a broad expectation of privacy, the better to promote candor and wisdom in the Oval Office. In U. S. v. Nixon, the famous 1974 case in which the Supreme Court first acknowledged the existence of such a privilege, it was ruled that Richard Nixon could not withhold damning evidence of his crimes. Otherwise, however, the Court left the scope of the privilege unclear. Now, in the Starr-Clinton confrontation, Starr wants to question confidential presidential advisers before his grand jury and, accordingly, we approach another fork in the road. So far, the signs aren't promising. Judge Norma Hollowell Johnson has ruled that Starr may insist on the testimony at issue; the president is expected to appeal.

The conventional wisdom in Washington is that a president may invoke executive privilege to shield conversations about "national security" and perhaps other clear matters of state, but not otherwise. Not to spare him "political embarrassment," so pronounced The Washington Post, that reliable fount of conventional wisdom, the other day.

The courts may take the Post's advice; they often do, alas. But let us be clear about what is at stake. Under the conventional wisdom lurks the facile, and probably false, distinction between "politics" and government. From the earliest days the American presidency has been an office in which political skills, the capacity to muster and maintain working majorities, ~~has~~ have been integrally related to the capacity to govern. Only tenth-rate jailhouse lawyers, and editorialists for the Post, claim to see where the seam is. It follows that if you deprive a president of the expectation that his political consultations are private, you strip him of a vital resource in the exercise of power. Indeed, the present tendency to draw sharp distinctions between politics (bad) and government (good), here as elsewhere, is but another aspect of that ongoing impulse to criminalize normal politics that underlies the "independent counsel" mania.

One of these days, perhaps long after Bill Clinton has handed along a minaturized presidency to some hapless successor, another great emergency will come along and the vigorous presidential leadership without which our system is a drifting, rudderless boat, will be demanded. If present trends continue, we may find then that the office has been stealthily crippled while we were out to lunch and we shall be properly outraged -- too late.

CONFIDENTIAL

SID - A LATER DRAFT OF THE PIECE I SENT YESTERDAY

Millions of people outside the beltway manage very handily to contain their anxiety about Washington's continuing star attraction, the interminable sex-and-crime melodrama. From New York island to the Golden Gate, good citizens get through whole days, even months, without knitting their brows for a nanosecond about executive privilege and such -- the reassuring symptom of a superior sense of proportion.

But are Americans, in this happy serenity, ignoring a process that could someday affect their destiny for the worse? That process is the whittling down not only of presidents, vulnerable as they are these days to random hunting by the press and special investigators, but of the presidency itself.

The process began in its present phase with the sudden collapse of the Soviet Union nearly a decade ago. With that collapse, presidents forfeited their primacy as key players in a nuclear confrontation that could turn deadly. A cold war president was the custodian of Armageddon, armed with almost unimaginable power. When he could blow up the planet at whim, to quibble over his personal legal standing -- to treat him as a cipher to be hailed from one piddling deposition to another, a sort of republican version of the King of Denmark -- would have been dismissed as a grotesque impertinence.

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THE PRESIDENT HAS SEEN
5-28-98

THE WHITE HOUSE

WASHINGTON

'98 MAY 28 PM3:59

May 28, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: **LARRY STEIN** LJS

SUBJECT: **PER YOUR REQUEST**

House Rules Committee reports that House Committees have held "less than 25" days of public investigative hearings this year. The low number is, however, an imprecise indicator of the intensity of investigative zeal.

More representative are the 39 ongoing investigations being conducted by 11 of the 20 standing House Committees. Man-hours, numbers of subpoenas and total dollars expended will be forthcoming when the committee completes its report on this subject in the next few weeks.

As you know, the Senate has held few investigative hearings since the Thompson Committee completed its work last fall.

THE PRESIDENT HAS SEEN
5-28-98

Wed: 7:05 p.m

Betty

Jessica, from Larry Stein's office, Called to say he talked w/ hill staffers and will have the documentation they discussed by noon tomorrow. (regarding hill hearings)

Janis.

PHOTOCOPY
WJC HANDWRITING