

THE PRESIDENT HAS SEEN

4/4/95

USA TODAY • MONDAY, APRIL 3, 1995

LETTERS

Power of medical malpractice lawsuits underestimated

Susan Estrich was correct when she stated that "medical malpractice claims aren't responsible for driving up the cost of health care" ("Why protect doctors?" Counterpoints, Opinion USA, Thursday).

What is responsible is the potential for a claim.

I lay 40 years of training and work on the line with every decision I make. That's why I order a \$600 Magnetic Resonance Imaging on even the slightest of bumps on the head.

It's called CYA.

Charles Spears, M.D.
Branson, Mo.

Digging old dirt cheap shot

Re: "Sutton's renaissance plays out before millions," Bryan Burwell commentary, Sports, Wednesday.

What's the point?

Is this year's NCAA men's basketball tournament so void of scandal that Burwell is forced to reach back six years to the Kentucky situation to trash someone involved in this year's Final Four?

I'm not defending Oklahoma State coach Eddie Sutton's guilt or innocence, for that matter. Frankly, I'm not familiar with the story.

Employees can't just leave faith at home

The article "How much faith can a worker show?" opens the door on the discussion of religion in the workplace (Life, Wednesday).

The controversy between Southwest Airlines and flight attendant Vanessa McCauley, who was fired for reading her Bible at work, centers on whether there are any limits on religious expression while on the job.

It is impossible to expect people who are serious about faith to leave it at home when they go to work. Faith is a belief system and a lifestyle that permeates all of one's life.

Likewise, an employer can expect an employee to perform assigned tasks and not abuse religion on company time by proselytizing other employees.

The real challenge for a spiritually minded worker is to live faith at work



McCAULEY

in such a way that faith is an attraction and a benefit, not a nuisance or distraction. It should not be unethical to bring the central, core elements of faith into everyday activity. Who could be offended if a worker responded to a co-worker's personal crisis with a heartfelt, "I'll pray for you"?

The workplace is an integral part of life. A healthy person integrates faith and work in such a way that each area of life is enhanced, not diminished.

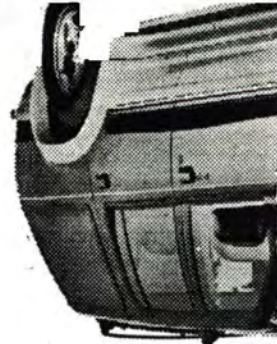
As America struggles with an uncertain job market, changing economy and seemingly endless downsizing, we need to affirm the values that make us great and continue to provide meaning, rather than to set up artificial barriers that can only deprive us of such strength.

The Rev. David Johnson Rowe
Pittsfield, Mass.

Original Inquiries at Ken

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Carroll/Brown
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REVIEW & OUTLOOK

The Nature of Poverty

The welfare debate promises to stay hot for awhile, as Republicans ring down the curtain on the 30-year run of the American welfare system. Amid the rhetoric and moralizing, there's one fact about poverty that seldom gets mentioned: Those who make up the ranks of the poor are changing continuously. The poor may always be with us, but they're not necessarily the same people from year to year.

To understand what that means, welfare reformers would do well to take a look at an important study that the Census Bureau released recently with little fanfare. The study measured poverty over a 32-month period from 1990 to 1992. Its provocative conclusion is that while there is little change year to year in the number of Americans who live in poverty, the poverty population is actually very "dynamic." "In fact," the report states, "many more people change poverty status from one year to the next than [is] indicated by simply looking at the net change in the poverty rate."

The reason this is important is that it makes it possible to distinguish the long-term poor from the short-term poor and shape public policy accordingly. Indeed, if welfare were just about lending a temporary helping hand to someone who has fallen down on his luck, we wouldn't be embroiled in a ribsy national debate about how to fix it. The disagreement among reformers isn't about whether society has a responsibility to assist those who are trying to pull themselves up out of poverty. The bitter fights are about how to help those for whom poverty is a way of life.

The official measures of poverty aren't of much assistance in identifying the long-term poor. The usual standard is to look only at annual income; if it falls below a certain level the individual is dubbed "poor." Such mea-

1991 was much lower: 10.6 million rather than 19 million. It further found that 21% of those who were poor in 1990 were not poor the next year.

Along the way, the study turned up some other important data that suggest how we might best help the poor. Notably, it shows there are two almost sure-fire routes out of poverty: education and marriage. Anyone who possesses a high school diploma and a marriage certificate is highly unlikely to be poor long.

On education, the study found that in an average month of 1990, 20.8% of those without high school diplomas were poor, compared with only 9.3% of high school graduates and 5.5% of those with one or more years of college. Of the chronic poor (those poor for every month of 1990 and 1991), 9.1% had less than four years of high school, compared with 2.7% with high school diplomas and 0.9% of those with one or more years of college.

Even more dramatic, married people were far less likely to be poor than the unmarried, a finding that holds special import for women and children. In an average month of 1990, an astounding 35.2% of people in female-headed households were poor compared with 7% of those in households headed by married couples. Of the chronic poor, only 1.4% lived in families with married couples. Given these figures, it shouldn't be surprising that the clearest predictor of whether a child will live in poverty is the marital status of the child's parents.

The Census Bureau study offers a portrait of poverty that is considerably different from those who make out "the poor" to be a never-changing group. Sliding up and down the income scale is nothing out of the ordinary in a capitalist society. The same, incidentally, holds for what the President likes to deride as "the richest Americans." At that end of the scale you may have no-

By MYRON A.

For lovers of cities, the budget is an epochal event beyond mere economic concerns. The most basic questions for the budget raises, in a practical way, fundamental about the relation of the urban poor, and it waves a settled agreement on the order it has caused such an.

The budget, critics charge, and "mean," its deep cuts backs of the poor, for whom astating." New York, it is said, traditional generosity to made it special; according to Times report, "[Mayor Rudin] may have placed in jeopardy the urban largess that has New York and made it the world's

Yet what traditionally made magnet to the poor was the held out, not a system of welfare for the unproductive, like the rapidly expanding economy, offered entry level jobs of all kinds ample opportunity to move up the ladder, as high, sometimes, as Vanderbilt or Russell Sage.

Seizing the Chances

Municipal generosity traditionally consisted of a free school system for children of all descriptions, including, both intellectual and so the chances that this open, economy offered. It consisted of free college, with demanding that talented kids without money as high as their drive would to consisted of parks and libraries and legal system, that belonged well as to the rich. It consisted of a tangible level, of a spirit of trying to give the poor, whether native born, an opportunity, largess, by cultivating the capital, augmented rather than the common wealth.

But today's idea of how to help the poor—by creating a treats them as victims to be pitied rather than as equal citizens with chance—does them more harm

First, it undermines pre- economic expansiveness that has been cities' greatest gift to the happens when New York City

U.S. Aid to South Africa: 'Apartheid in Reverse'?

Critics Call \$200 Million Program Illegal

By Paul Taylor
Washington Post Foreign Service

AI

SOUTH AFRICA, From AI

PRETORIA, South Africa—At a time when affirmative action and minority set-aside programs have bumped into a political backlash in the United States, race-based grants are flourishing as never before in the U.S. foreign aid program in South Africa.

In the past three years, the U.S. Agency for International Development (AID) mission here has used quotas and other race-preference strategies to sharply increase the percentage of South African AID recipients who are black and of U.S.-based AID contractors who are African American.

Grant recipients, many outsiders and the host South African government all have lavish praise for the AID mission here, which focuses on education, housing, business development and governance. They say it appropriately and unabashedly channels resources to the neediest South Africans—blacks victimized by centuries of white domination and decades of the former white-minority government's apartheid system of racial separation.

But the program has drawn flak from both within AID and without. Two disgruntled former employees of the AID mission here have launched a public campaign to denounce it as misguided and possibly illegal; their complaints triggered several internal investigations. Some South African groups that have had grant applications denied or discontinued also have voiced concerns.

The critics argue that AID has pursued a policy of "apartheid in reverse" by structuring its \$200 million-a-year program here primarily to satisfy ideological and pork-barrel pressures from the African American

See SOUTH AFRICA, A15, Col 4

can lobby in the United States. In so doing, they say, AID is undermining South African efforts to build a successful multiracial society.

"Seeing African American politicians and officials abuse American regulations for the benefit of other African Americans creates the reasonable perception that they are more concerned about their own interests than those of South Africans," Harry Johnson, a career diplomat who retired last year from the AID mission, wrote recently to a member of Congress.

AID Mission Director Leslie A. Dean defended the policy to steer as much of the AID program as possible through African American contractors. "We have pushed it, and I make no apology for that," he said. "The work done here by U.S. minorities has been outstanding." Dean said African Americans had a special understanding of the challenges facing South African blacks in areas such as business development and education.

Similarly, U.S. Ambassador Princeton Lyman defended the mission's move toward funding black-led South African organizations, sometimes at the expense of white-led, multiracial groups that boast impeccable anti-apartheid credentials and greater organizational capacity to absorb outside donor funding.

"When I got here [in mid-1992], I heard complaints from black South Africans that the AID program was condescending and patronizing—that the only way blacks got money was when it passed through the hands of whites," Lyman said. "So we had to ask ourselves: Are we really helping to build capacity among blacks or not? I think we had to send a message to some of these white-led groups: It's time to practice what you preach when it comes to black empowerment."

The AID program was launched here in 1985 during the era of international economic sanctions against the white-minority government, and has always been unique. It was the only AID mission in the world where no money went through the host government. All funds went to private, nongovernmental organizations here—most of them white-led—for scholarships and for anti-apartheid and human rights activities.

With the election last year of a democratic, black-led government, the AID mission shifted its priorities toward housing, education and business development programs for blacks. Most of the money still goes through nongovernment groups. The level of funding has grown

sharply—from \$7 million in 1985 to \$200 million this year. This is now Washington's largest non-food foreign aid mission in sub-Saharan Africa; on a per capita basis, the United States donates more money to South Africa than to Russia—a reflection of the great political support South Africa's democratic transformation enjoys in the United States.

As the focus of the program has changed, so has the complexion of recipients and contractors. In 1992, 25 percent of U.S. aid here went to black-led South African groups; by 1994, that figure had risen to 51 percent (the country is 76 percent black and 14 percent white, while 74 percent of Americans are white and 12.5 percent black). On the other

"You sometimes get the impression that blacks in America are trying to win political battles in South Africa they felt they never won at home."

—Mamphela Ramphele, South African educator

side of the Atlantic Ocean, there were changes as well. In 1991, African American groups received 1 percent of the AID grants to help implement programs here; in 1994, this figure had risen to 16 percent.

Paul Neifert, a white AID employee who was transferred out of the mission against his will last year after a series of personnel and policy clashes with black supervisors, has charged that this shift was achieved by illegally circumventing AID regulations and contracting procedures. His allegations have triggered at least four investigations and audits, some of which are still underway. So far, no criminal wrongdoing has been found.

Ambassador Lyman said he is offended by claims by Neifert and Johnson that the program here has become a pork barrel for African American groups. "It is disturbing that this level of participation [by African Americans] should lead to charges of reverse discrimination," he said. "My experience in 20 years with AID has been that we tend to be blind to potential black contractors unless we are somehow forced to look."

Complaints of reverse discrimination have also come from some South Africans—black as well as white.

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Chris Darroll, the white executive director of Sunnyside Group, a private South African consortium that promotes the development of small, mostly black business, said she was told last year by AID Deputy Mission Director William Ford that her group suffered from "many problems," one of which was that it was an "integrated organization." Its AID funding was subsequently discontinued.

Mamphela Ramphele, one of South Africa's leading black academics and the widow of slain Black Consciousness Movement leader Steve Biko, is sharply critical of AID's new \$50 million, 10-year higher-education project here. She objects that it focuses all its resources on black South African universities—to the exclusion of elite, formerly all-white universities whose student bodies are rapidly becoming majority black.

"You sometimes get the impression that blacks in America are trying to win political battles in South Africa they felt they never won at home," said Ramphele, deputy vice chancellor of the University of Cape Town, a liberal, elite, multiracial university. "For the sake of political correctness in America, we have an aid program here that does not support blacks who are pursuing academic excellence."

One official of a black university here, who asked not to be identified, objected to the AID program for a different reason. He said it seeks to aid black universities here mainly through contracts awarded to black universities in the United States, for such services as curriculum development and administrative and faculty exchanges.

"Why shouldn't we be able to have links with all the universities in America?" he asked.

The unusual AID regulations developed for the higher education project here call for 35 percent of all grants to be awarded to historically black colleges in the United States. Of those American institutions that bid for the remaining 65 percent "open" grants, all must have a black university as a sub-contractor.

AID Mission Director Dean acknowledged these quotas go well beyond the mandates of congressional set-aside legislation. He said he felt they were appropriate to the circumstances here.

The new South African government agrees. "Given the history of apartheid education, given the terrible underfunding of black universities, and given America's own resource pool of historically black universities, we think this is a well-structured program," said Education Minister Sibiso Bengu.

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U.S. Aid Program in S. Africa Criticized

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Mixing God and Politics Brings Out the Naysayers

Ties to GOP Agenda Worry Some Evangelicals

By Laurie Goodstein
Washington Post Staff Writer

A1

In convention centers and church halls, magazines and seminaries, influential evangelical Christians are warning that God's church has become dangerously intertwined with the earthly agenda of the Republican Party.

The backlash comes as conservative Christian organizations are becoming increasingly powerful players in political wrangling over such apparently nonreligious issues as reforming welfare, cutting taxes and reducing the federal government's authority.

"To wrap ourselves in the flag of any one particular party is very dangerous," said the Rev. Don Argue, president-elect of the National Association of Evangelicals. "And there has been quite a movement that has identified evangelicals as part of the Republicans and part of the extreme right. Although evangelicals may hold some of these same positions, they are very very . . . [averse] to being identified with one particular party or one particular ideology."

Call it the Screwtape effect. In a tale by C.S. Lewis, a favorite writer of faithful Christians, a senior devil named Screwtape instructs his nephew on sure-fire ways to corrupt a Christian. One of the best, Screwtape advises, is to find one swept up in the political "partisan spirit" and "gradually nurse him on to the stage at which religion becomes merely part of the cause."

Conservative columnist Cal Thomas, a former leader of the Moral Majority, cited Screwtape last week at a convention of Christian activists in Florida. He told them the good works of the church "are compromised when the Gospel is politicized, when the pulpit becomes a tool of political organization." He received a standing ovation.

The evangelical world "is by no means monolithic," said Duane Litfin, president of Wheaton College. "You will find people who are clearly evangelical in their philosophy who are on the right wing or the left wing."

The term "evangelical" is often used erroneously as a synonym for conservative or fundamentalist. The label broadly refers to those who believe in a personal relationship to Christ—instead of relating through clergy or denomination—and who are committed to spreading the Gospel among nonbelievers.

Although liberal evangelicals have
See EVANGELICALS, A10, Col. 1

EVANGELICALS, From A1

in the past criticized co-religionists for excessive entanglement with Republicans, what is different now is that the critics include solidly conservative evangelicals as well.

Unlike columnist Thomas, most have kept their criticism private. Part of the reason for their ire is that they believe evangelicals have been the source of some of the most vicious and irresponsible attacks on President Clinton. In particular, many sources said they abhorred the Rev. Jerry Falwell's decision to continue to market on his television program a set of videotapes alleging that Clinton had dealt drugs and ordered people murdered in Arkansas. Although they disagree with Clinton's policies on issues such as abortion and homosexuality, these evangelicals say he is, after all, the president and deserves respect.

They also expressed concern that by putting so much effort into lobbying and legislation, evangelical Christians appear to send the message that government—and not the church—can solve the nation's moral and spiritual problems.

They point to James C. Dobson, president of Focus on the Family, who recently sent a harshly worded letter to Republican National Committee Chairman Haley Barbour warning that Republican presidential candidates not opposed to abortion are unacceptable to Focus's 2 million constituents. And the Christian Coalition, founded by television evangelist Pat Robertson, announced it would commit its 1.5 million members and \$1 million to lobby in support of the GOP's "Contract With America."

Anticipating objections, several state Christian Coalition organizers said they had been prepped on how to respond to Christians who might ask: Where does the Bible say that God supports a balanced budget amendment or the unfunded mandates bill?

Noted Christianity Today, a Magazine of Evangelical Conviction: "Although religious leaders for generations have spoken in favor of bills before Congress, rarely has a religious organization been so closely identified with partisan politics and a legislative agenda as has the Christian Coalition with the new GOP leadership and its contract."

Ralph Reed, executive director of the Christian Coalition, responded that "the Christian Coalition is not and never has claimed to be a church or a ministry. It is an explicitly grass-roots lobbying organization representing people of faith and seeking family-friendly public policy."

"I don't really view the contract as a Republican proposal" because it has won support from some Democratic legislators, Reed said. "I don't think anyone is operating under the false assumption that the church is a wholly owned subsidiary of the Republican Party, particularly when you have the Catholic bishops criticizing Republican welfare proposals, Marian Wright Edelman [of the liberal Children's Defense Fund] quoting from the Bible, and the National Council of Churches condemning the balanced budget amendment. . . .

There is a diversity of religious voices out there."

The National Association of Evangelicals (NAE), representing 45 denominations with 15 million members, has in recent decades developed a reputation as a reliable ally of the religious right. But last month at its annual convention in Louisville, an NAE committee considered a resolution designed to recast the group as more neutral and nonaligned.

The resolution said in part: "Partisan political activity is properly an individual matter, and Christian citizens are free to be as partisan as they may choose to be. For the church, however, political partisanship is not proper and poses great problems. A church should not endorse or oppose political parties or candidates, but should remain faithful to its spiritual mission."

It would have passed if it had been presented to the convention in time, president-elect Argue said, adding, "There was very strong support for it."

Among the reasons that concerns about partisan entanglements are arising now is that some white evangelical groups, such as the NAE, are making efforts to reach out to African American and Hispanic evangelicals. Mistrust is deep in part because during the civil rights movement, "a lot of the white church reacted with skepticism and removed themselves from the struggle," Argue said.

Now the Republican Party is pushing positions that many say are likely to broaden the breach between whites and minorities, such as ending affirmative action, denying aid to immigrants, cutting crime prevention programs and ending welfare for teenage mothers. Evangelicals say they are uncomfortable being associated with positions that could eventually be judged un-Christian, as was opposition to the civil rights movement.

"There is a tendency now to turn to . . . selfish issues—cutting welfare, eliminating gun control—rather than what I would consider the moral issues," said Norman G. Wilson, director of the department of communications with the international center of The Wesleyan Church, an evangelical denomination with about 1,700 churches worldwide. "There are a lot of middle-class evangelical Christians that could get all wrapped up in getting their taxes cut and saving money, rather than the moral issues" such as abortion and homosexuality.

No one in this debate is saying that individual Christians should not be involved in local or national politics. "I'm involved in any way I can be to help minorities," said the Rt. Rev. L.H. Ford, presiding bishop of the Church of God in Christ, a predominantly African American denomination with 8 million members. "What was David? He was both prophet, king and priest."

But the warnings about equating God's agenda with a party agenda are not likely to go away, said John Green, director of the Ray C. Bliss Institute of Applied Politics at the University of Akron.

"We're going to hear the criticism more and more as we go into [the] '96 [presidential elections]," Green said, "because the real political groups among evangelicals have only had their appetites whetted. And they're going to be big players in '96, win, lose or draw."

Disorder
JFK

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Some Agencies Stage Affirmative-Action Retreat While White House Still Debates Its Battle Plan

By MICHAEL K. BRISBY

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — As President Clinton considers changes to affirmative-action policies, his administration already is retreating.

Without clear guidance from the top—it's still not known if Mr. Clinton will abandon some established practices — agencies have begun some backtracking on their own. In the Justice Department, for instance, a conservative and cautious standard is now being used for establishing race-based remedies within other government agencies, even before the president makes his decision.

The Commerce Department learned this recently, when it sought approval for a new fellowship program aimed at minority business students. But it got a surprise answer: Don't create a race-based program, because there isn't convincing evidence of past discrimination.

The Commerce Department wanted to model a program for its U.S. and Foreign Commercial Service after one in the State Department; five minority student-interns were to gain experience, which could lead to jobs as foreign commercial service officers, just as the State Department's program has trained students for diplomatic duty. Currently, only 23 of the service's 217 commercial officers are minorities.

The Justice Department said no. In a March 6 memo, Commerce Assistant Counsel Barbara S. Fredericks recommended that "race-neutral criteria," such as economic disadvantages, be used to determine eligibility. "This office has discussed the proposed fellowship program with the Office of Legal Counsel, Department of Justice, and it is their opinion that there is insufficient legal basis for US&FCS to base eligibility for a fellowship program on minority status," Ms. Fredericks wrote.

Foundation Program

Moreover, she said the Justice Department believes a state program at the Woodrow Wilson National Fellowship Foundation, in place since 1992, "may not withstand judicial scrutiny."

This interpretation has both angered and puzzled civil-rights lawyers. Barbara Arnwine, head of the Lawyers Committee For Civil Rights Under Law, said their view is that the 1989 Richmond vs. Croson Supreme Court decision, plus other cases, does not require the federal government to show a pattern of past discrimination before adopting race-based remedies (though state governments may have to). She voiced "surprise" at the Justice Department's view, saying it recently argued in a pending Supreme Court case that the

federal government has "much broader powers" than the states.

The Commerce Department, meanwhile, isn't sure what to do next. "We are in the process of reassessing the best way to proceed, because it is a very solid program," says Carol Hamilton, the press secretary. She says the department wants more minority commercial officers, the people who work overseas to promote trade, because much U.S. export growth will be in Third World countries.

At other agencies, programs fashioned to help minorities and women also are under attack. For example, a technicality has been used at the Agriculture Department to question the legality of a task force

designed to help African-American land grant colleges. The Federal Deposit Insurance Corp. may not absorb a Resolution Trust Corp. program that helps generate contracts for female and minority headed-firms when the two agencies merge. And the Office of Management and Budget suggests a procurement change that would make it more difficult to know if large government contractors meet federal goals for awarding subcontracts to minority companies.

"Of course this is backtracking," says Frank Watkins of the Rainbow Coalition, an activist group. "If you are not seen as moving forward aggressively on enforcing racial justice and gender-equality remedies, then your government will move backwards."

Planned Speech

In fact, a presidential review of preference programs, prompted by GOP attacks, has caused exactly what the administration doesn't want: Minorities are irritated by perceived attempts to take away hard-earned victories, yet blue-collar whites aren't impressed. When Mr. Clinton makes a planned speech on affirmative action, originally scheduled for this week but put off until next month, he doesn't want to upset either constituency.

This issue, however, appears to be uniting two of his potential opponents, Jesse Jackson and Texas billionaire Ross Perot. Mr. Jackson has invited Mr. Perot to join him at a news conference in support of affirmative action.

Meanwhile, the administration sends mixed signals. At a recent meeting, Chief of Staff Leon Panetta vowed to Mr. Jackson and other civil-rights leaders that "we will not go backwards" on affirmative action. Deval Patrick, the head of the Justice Department's Civil Rights Division, will be grilled today at a House hearing on affirmative action. But in the agencies, bureaucrats move in different ways.

Minority-college presidents are upset because the Agriculture Department's general counsel recently ruled the USDA/1890 Task Force, intended to improve its relations with 17 predominately black agriculture schools, is operating illegally. They say the task force, which has both department officials and college presidents, violates the Federal Advisory Committee Act, which limits what officials and citizens can do together in closed meetings.

They "expected us to cease and desist," complains James Tatum, special assistant to the task force. Although there is concern in the civil-rights community that the move is linked to the review of affirmative-action programs, it may reflect unrelated legal requirements. Mr. Tatum says he doesn't question the department's commitment to the task force.

'Purely Technical' Concerns

In fact, Tom Amontree, the department's press secretary, says the depart-

ment "fully supports" the task force and has the "purely technical" concerns under review. The task force dates from the Reagan administration and is supposed to help black colleges gain a larger share of federal resources. For example, they received \$69.2 million of USDA funds in 1991, while white schools got \$267.8 million.

To get this done, the task force recommended stationing a bureaucrat at each of the 17 college campuses as a liaison officer, and helped start a program that awards scholarships and, eventually, jobs at the Agriculture Department to 34 minority students each year. It also helps the colleges acquire surplus government property to upgrade their facilities.

"To dismantle this based on some technicality would be unfortunate," says William DeLauder, president of Delaware State College and a co-chairman of the task force.

Minority businesses are concerned about a proposed regulation change at the Office of Federal Procurement Policy. It would let major government contractors report whether they're meeting small and disadvantaged business subcontracting goals on a company-wide basis, rather than on each contract over \$500,000.

Such a change, says Belinda Guadarrama, president of a minority computer-software company in California, would make it difficult to know if contractors give disadvantaged companies at least 5% of their subcontracting work, the government goal. She says the move comes after she won a court ruling which forces the Pentagon to release twice-yearly reports from contractors about meeting these goals.

Easing Paperwork Burden

But William Coleman, the OFPP deputy administrator, says the administration wants to ease the paperwork burden on companies by making this change, and has asked Congress to eliminate the need for subcontracting goals on commercial pur-

chases.

At the FDIC, Chairman Ricki Tigert Helfer is postponing a decision about how much of an RTC minority and women's program to include when the two agencies

merge at year end. Alan Whitney, the press spokesman, says the FDIC has hired an outside consultant to study the program and Ms. Helfer "is awaiting the results of this review."

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CHIEF OF STAFF TO THE PRESIDENT

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Vince Foster's Death Is a Lively Business For Conspiracy Buffs

Al * * *
They Sell Videos and Raise
Cash From Conservatives;
Arianna Huffington's Role

By ELLEN JOAN POLLOCK

Staff Reporter of THE WALL STREET JOURNAL

Vincent Foster's death two years ago continues to excite conspiracy buffs. It has also become a lively business.

Newsletters, on-line computer services and, especially, videos have kept the former deputy White House counsel's memory very much alive, mainly by generating elaborate and scurrilous rumors about his suicide.

Since Mr. Foster's body was found in July 1993 in Virginia's Fort Marcy Park, two federal investigations have concluded that he shot himself after a devastating bout of depression. Two congressional panels have concurred. His family has issued a statement calling the murder rumors "despicable" and begging the conspiracy theorists to back off.

'Real Strange'

Not a chance. At least three organizations are marketing the Foster conspiracy theories. Perhaps you have caught one of a torrent of newspaper ads that spins out elaborate conspiracy tales, with headlines like, "Vincent Foster Case Still Not Closed—New Video Proves It!"

It is "real, real strange" that no soil was found on the bottom of Mr. Foster's shoes even though his body was found in the middle of the park, says Paul Mortell, a Lehman Brothers trader in Chicago, who came across that particular ad recently. "How did he get there?"

Most visible among the groups plying conspiracy theories is the Western Journalism Center, a tiny, heretofore unknown organization in California that has placed a number of ads, including the one Mr. Mortell saw. That ad calls Mr. Foster "the highest ranking U.S. official to die under mysterious and violent circumstances since JFK." For a \$35 donation it offers a 40-minute video that "You will watch . . . over and over again. You will want to show it to your friends."

So who is behind the Western Journalism Center? Not the Los Angeles Times, or the San Francisco Chronicle, or, for that matter, any other newspaper. The group is, instead, basically a one-man show created by conservative consultant Joseph Farah, backed in part by wealthy conservatives.

Indeed, as it turns out, all three of the major groups spreading conspiracy theories are linked to conservative activists, whose agendas include campaigning for a balanced budget and against gay rights. For some of them, the drive to portray Mr. Foster's death as something nefarious is also an opportunity to suggest that President and Mrs. Clinton may be responsible for a coverup—or worse.

A Mellon Heir's Role

Mr. Farah's biggest contributors include the Carthage Foundation, funded by Richard Scaife, a Mellon heir and supporter of conservative causes and newspapers. Another donor is Joseph Jacobs's family foundation; Mr. Jacobs, founder of Jacobs Engineering Group, says the WJC sees a "coverup" that may lay bare "a weakness in the liberal position." Arianna Huffington, wife of defeated Republican senatorial candidate Michael Huffington, sits on WJC's advisory board.

Ms. Huffington, who is developing a television show called "Beat the Press" and is looking for "alternatives to the welfare state," says she doesn't have "any special knowledge" about Mr. Foster.

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ter's death. But she is interested in "anything that smacks of a general withholding of information. There are, you know, some unanswered questions."

For his part, WJC founder Mr. Farah, 40, is a self-described "Watergate baby" who believes that today's breed of reporter goes too soft on government. "We make no apologies for being suspicious of government," says Mr. Farah. "That's what we're trying to recapture."

Mr. Farah created the WJC in 1991, but it was dormant until it took on the Foster investigation last year. "There just seemed to be so much resistance in the mainstream press, we decided to look at it," Mr. Farah says. He ended up buying full-page newspaper ads to publicize the findings of Christopher Ruddy, a reporter who says he was forced to leave the New York Post after refusing to write about anything but Mr. Foster's death. The ads have appeared in the New York Times, Washington Post, Chicago Tribune, Los Angeles Times and other newspapers.

It was in one of those ads that Mr. Mortell, the trader, learned about the mystery of the missing soil. "That's not Rush Limbaugh making those claims," says Mr. Mortell. "That's FBI analysis." And so it is. Only the ad neglected to mention something that might have put the Chicago trader's mind at ease. The FBI lab did find mica—rock particles that litter the ground in the park—on Mr. Foster's shoes and socks.

The response to the ads, nevertheless, has been overwhelming and lucrative, according to Mr. Farah. In less than a year, Mr. Farah has collected "darn close to \$500,000" from people answering the ads and from his foundation backers, he says. His goal for the first year had been to raise between \$250,000 and \$300,000.

The money, most of which goes to bankroll more ads, is also being used to develop a list of contributors. WJC hopes to hit up these donors when it comes time to finance future projects—including an investigation of voter fraud, which Ms. Huffington and her husband blamed for his loss last November in California.

The king of Foster conspiracy theories is 30-year-old Mr. Ruddy. Since leaving the Post, he now covers the Foster case for a conservative Pittsburgh paper owned by Mr. Scaife, and has also received financial support from WJC. But Mr. Ruddy was propelled to conspiracy superstardom by James Davidson, who produced the WJC-distributed video.

Mr. Davidson is chairman of the National Taxpayers Union, which has long lobbied for a balanced-budget amendment. He also owns Strategic Investment, a newsletter that recently predicted that allegations against Mr. Clinton will "go beyond anything ever alleged in the Watergate scandal" and that the Clintons "will be eliminated from the political scene, hopelessly and totally discredited."

Mr. Davidson maintains that there is only a "one in a million possibility that [Mr. Foster's death] was actually a suicide. . . . You don't have to be Agatha Christie to know this doesn't make any sense." Actually, many conspiracy theorists, including Mr. Ruddy, stop short of saying they have proved murder. This may be because so many of the theorists' suspicions can be explained away by a cursory reading of a report by Robert Fiske, the former independent counsel.

Among the "inconsistencies" cited in WJC's ad are that the gun remained in Mr. Foster's hand despite the explosion, that little blood was found under his body, that no powder burns were found in his mouth, that the left-handed Mr. Foster was found with the gun in his right hand, and

that carpet fibers were found on his clothes—suggesting that the body was rolled up in a carpet and moved.

The Fiske report explains that Mr. Foster's thumb was caught between the trigger and trigger guard of the gun, that because his body was on an incline, gravity drew his blood away from the head wound, and that a substance consistent with powder residue was found on his soft palate. Fiske investigators found that Mr. Foster was in fact right-handed. And the report says that if the body had been transported, "substantially greater contamination of skin surfaces and clothing by spilled and/or smeared blood would have been unavoidable," and that in fact, once the body was moved to the morgue, "substantial blood loss did occur."

The latest entry in the conspiracy market, "The Death of Vince Foster—What Really Happened," is being distributed by Jeremiah Films, a Christian video firm. Released in February, it has sold more

than 3,500 copies. Mr. Ruddy is also featured in this video, which was produced by Citizens for Honest Government, a conservative group headed by Jeremiah's owner.

Jeremiah's publishing arm has also been negotiating to distribute "The Murder of Vincent Foster," a self-published book by Michael Kellett. "There is no doubt," writes Mr. Kellett in an open letter to the Clintons. "I . . . hereby accuse the both of you of being responsible for, and the initiation and orchestration of, the murder of Vincent W. Foster, Jr." If Jeremiah does publish the book, says Patrick Matrisciana, Jeremiah's owner, it will probably come up with a new title and make other changes that are "more stylistic than substantive."

Jeremiah also distributes another popular anti-Clinton video made by Citizens for Honest Government, "The Clinton Chronicles," which has sold 150,000 copies. These more political tracts are departures for Jeremiah. Its more typical products reveal "heart breaking accounts of families and lives destroyed by the Mormon Church" and show that Halloween glorifies "Pagan occultism," according to its literature.

The company also has made antihomosexual videos that have been used in campaigns against gay civil-rights measures. One video features kissing homosexual couples, many in flamboyant garb, at a Washington march that, according to the video, was "funded in part by the presidential inauguration committee." The video features one gay man saying of Mr. Clinton, "He's cute!" and warns that civil-rights protection of gays will lead to taxpayer funding of sex-change operations.

"We try to hit issues that are not basically touched by the mainstream media," Jeremiah's Mr. Matrisciana says. "We basically espouse what could be considered old-time values. I think the average American needs to know."

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HEALTH & BEHAVIOR

Interracial adoption policy colored by controversy

By Marilyn Elias
USA TODAY

Hollywood and the GOP's Contract With America are promoting opposite views this week on the explosive topic of interracial adoption.

Losing Isaiah portrays a black birth mother winning custody of her 4-year-old after he's adopted by a white family.

But that tinseltown take on cross-race adoption clashes with the welfare-reform bill sent to the Senate this week: It would cut off federal funds to any agency that uses racial criteria in placing children.

The provision, given a good chance of passing, could sabotage efforts to give African-American families preference in the placement of black children. Forty states now allow race to be considered, to some degree, as a factor in adoption; three others have laws that require preference for same-race adoptions.

A federal end run around these state policies "is in the best interest of children," argues Bill Pierce of the National Council for Adoption in Washington, D.C. "Lots and lots of people are dying to adopt children, and skin color is not important to them. ... Adoptions are being held up and minority kids don't have homes."

But others sharply disagree.



By Richard Foreman, Paramount Pictures

'LOSING ISAIAH': Experts say the film, with Jessica Lange as a social worker who adopts a black child, has an unrealistic ending.

"This is dangerous; it's a scare tactic that can be used against agencies that are trying to recruit black families for black

kids," says Joe Kroll of the North American Council on Adoptable Children.

His agency favors giving

same-race "families of color" preference in adopting children. A 1991 NACAC national survey suggested that agencies aren't doing enough to recruit black adoptive families, and Kroll says there's been little improvement. One change: More black community-based agencies specializing in the search for minority adoptive parents have been launched.

No expert disputes that a disproportionate share of children waiting for homes are black. Of an estimated 50,000 U.S. youngsters now free for adoption, about 40% are black (12% of the U.S. population is black).

The controversy over interracial adoption hinges on how important it is for a minority child to be raised by parents of his own race. In *Losing Isaiah* the same-race argument triumphs, even to the extent of taking a 4-year-old from the only family he's known.

The National Association of Black Social Workers favors interracial adoption only as a last resort — after a vigorous search for kin and same-race parents has failed, says spokeswoman Leora Neal. But agencies rarely do a proper search, she says. "Black families get screened out because these white social workers don't understand cultural differences. Some still want non-working

What state laws say

Forty states allow race to be a deciding factor in adoption placements, according to *The Case for Transracial Adoption*, a report by Rita Simon and Howard Altstein of American University. What other states do:

► Kentucky, Maryland, New Jersey, Connecticut, Pennsylvania, Texas and Wisconsin bar race from being a factor in adoptions.

Wisconsin, Texas and Pennsylvania unconditionally prohibit discrimination. Connecticut and Maryland refuse to deny an adoption based on race, but do not address placement. New Jersey won't discriminate against parents based on their race, but race may be considered in determining the best interests of the child. Kentucky also prohibits discrimination unless the birth parents have expressed a desire for the child to go to a same-race family.

► Arkansas, California and Minnesota require same-race matches be attempted. First preference is for a blood relative, the second for a family of the same race and the last for placement with a family "knowledgeable and appreciative of the child's racial or ethnic heritage."

— Belinda Thurston

mothers, or they won't take single people or anyone over 40. Others won't take 'non-mainstream' religions, like Muslim or Seventh-day Adventists. ... Often they're looking for professional families and won't take working-class people."

Black kids raised by whites often feel they don't fit in with either race, Neal says. "They also don't learn coping mechanisms for dealing with racism, and that handicaps them."

But the largest, longest study

of interracial adoption has uncovered no problems tied to race. American University sociologist Rita Simon has followed 204 white adoptive couples for more than 20 years; the black kids are now adults.

Simon has found no significant identity problems among adoptees. Their self-esteem is just as high as that of siblings born to the white couples, she says. The adult black adoptees view interracial adoption very positively, Simon adds.

Other smaller studies also show positive findings.

Simon favors the new legislation. "It will make adoption easier and tell the states, 'Stop putting up these barriers.'"

Whether they're pro- or anti-adopting across racial lines, experts tend to see *Losing Isaiah* as an unrealistic take on the topic. A parent losing custody four years after an adoption is final (even to the birth mother), "is highly unlikely ... I don't know of a judge who would do that," says Carolyn Johnson of the National Adoption Center, Philadelphia.

"I'm concerned that adoptive parents will see this and worry that their child's birth mother can overturn a finalized adoption. It also could deter others from adopting."

In recent publicized custody challenges (Baby Jessica, Baby Richard), the adoptions were not final, Johnson emphasizes. Birth parents had filed legal challenges early in the child's life. "A birth mother can't just swoop in and take an older child away, like in the movie, no matter what her race. It just doesn't work that way."

For information on adopting U.S. children (mostly school-age, racial minorities or with special needs), phone the National Adoption Center at 800-862-3678.

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his lawyers said.

Anticipating death so often for so many years "caused him a tremendous amount of psychological pain and anguish," his lawyers said.

In a sworn statement, Lackey said prolonged residence on Death Row also is miserable "because you see the state killing other human beings around you. There have been approximately 90 executions in Texas since I've been here."

Defense lawyers blamed the Texas courts for taking 14 years to make his conviction final. Lackey had two trials, followed by lengthy mandatory appeals.

But the Texas attorney general's office condemned Lackey's lawyers for repeatedly "waiting until the last minute to file requests."

Even now, defense lawyers complain of delays while playing "a game of high-stakes brinksmanship in order to create yet another delay," state prosecutors told the Supreme Court.

Stevens suggested that lower court judges consider the degree of a prisoner's own abuse of the system before deciding whether the inmate was subjected to an unconstitutionally cruel wait for death.

In 1993, English judges ruled that delaying executions for many years violated the British ban on cruel and unusual punishments, the precursor of the Eighth Amendment.

They condemned "the Death Row phenomenon" in the United States, declaring that the lengthy appeal process should be "attributed to the appellate system that permits such delays and not to the prisoner who takes advantage of it."

Congress is considering legislation that would sharply limit a state prisoner's right to appeal to the federal courts. The House already has passed such a bill. The Senate Judiciary Committee is scheduled to consider a similar measure Tuesday.

Confessions of white (former) boss: Debate on affirmative action ignores some realities you learn in the trenches By Mary Newsom Knight-Ridder Newspapers

I've heard and read a lot of recent opinions about affirmative action programs and whether they are fatally flawed, and not much of what I'm hearing is coming from the trenches, where the real hiring decisions are made. So here's a confession: In several previous jobs, I helped hire and promote newspaper reporters and copy editors and assigning editors.

And what I see in much of the criticism of affirmative action and in many defenses as well is little acknowledgment of how random so many hiring decisions are to start with, and how subtly people's prejudices can affect their judgments.

When I was hiring people, we checked applicants' references and samples of their work. We interviewed them at length. We gave grammar and spelling tests, even personality tests, trying (with middling success) to weed out lazy or hostile or maladjusted people.

The result was that hiring is a roll of the dice. Sometimes you hire people you know will be terrific, and sometimes they are and other times they are turkeys. Sometimes you hire because you're desperate to fill a job and the applicant is alive and can start next week. Sometimes those you nearly reject turn out to be the best hires.

The worst hire I ever made was a guy who aced all the tests, even personality tests, had great work samples and was as congenial, in the interview, as your favorite uncle. On the job, he was proficient only in the narrowest sense and was so violently disliked by his colleagues that his simple presence was a headache for management, i.e. me.

Hiring, and the relationship between success on the job and what you look for when hiring, is far more random than

people admit. When you layer in the factors of race or gender, the picture becomes even more complicated.

At most newspapers, most people believe the operation is healthier when the staff is diverse in race, sex and ethnic background. News coverage is better if staffers have lots of interests, live in a lots of neighborhoods and know more people. Further, top editors here, as at many newspapers, get bonuses for meeting goals of increasing the staff's racial diversity.

Yet after years of close knowledge of dozens of hiring decisions, I've concluded that even with a belief in diversity, even with monetary incentives, it is harder for black people to be hired here than white people. Women seem to face that bias in promotions more than in hiring.

Yet I also think people here and in most newsrooms, are generally less racist and sexist than in many workplaces. Virtually all my white colleagues believe racism is wrong and don't want to do racist things.

Despite all that, I'm forced to conclude that without the spur in the back of corporate goals on affirmative action, or whatever you want to call it, far fewer black people would be working today at my newspaper and far fewer women would have those nice glass offices.

For some reason, sometimes when a job or promotion applicant is black or female, the decision-makers will be quite diligent about examining reasons why that person might not succeed. And when you look hard enough at any human beings, you're certain to come up with some reasons not to hire or promote them. The question is whether you're looking equally hard at everyone, regardless of race or sex.

Shortly after I arrived here, a 29-year-old assistant on the metro desk was promoted to managing editor. He was exceptionally bright and talented. Had he been female or black, maybe he would have won the same promotion. But I doubt it. He probably would have been told he needed experience, and to learn more diplomacy and a few other similar skills. All those things were true, yet he became an excellent managing editor. My point is that good reasons existed not to promote him, as well as good reasons to do so.

Since then I have seen just those kinds of reservations about women or blacks slow their progress. In each case, you couldn't argue with the existence of the negatives. But, I began to notice, the weight placed on those negatives was often greater when an applicant was not white and not male.

Of course it's not fair to look at two applicants, conclude one is far more qualified, hire the other anyway, and tell the first he or she is the wrong race or sex. That is affirmative action at its most destructive. And I have no doubt that sometimes happens. But do not even the ways we conclude one person is more qualified, in themselves, reflect our biases?

A few years ago, a black female editor was promoted. She had excellent experience and was well-regarded by peers and supervisors. A competitor for the promotion, a white male who no doubt could also have done the job well, reportedly told several people, "She got the job because she was black."

To my eye, she was the better qualified, her experience more directly relevant. To his eye, he was a victim of affirmative action.

That's why the whole issue of affirmative action is a morass. It requires people to assess whether someone is "more qualified" and ignores the reality that such assessments may be poor predictors of whether they succeed.

Like it or not, discomfort with other races or sexes or ethnic groups will seep its way into your decision-making on hiring or promoting. It is inevitable in a society where so much emphasis is placed for good or ill on race and sex. It's unlikely you'll realize it is happening. But it is. And something is needed to counterbalance that tendency.

Some folks propose that affirmative action should be based on economic class, not race, so you'd give preference to someone who is poor, regardless of race,

over the child of an orthodontist. It's an intriguing idea. But it ignores a sad reality: Racism exists, and it is not all based on economic class.

As this country continues trying to find its way out of the wilderness that is race relations, let us not base our arguments and actions on the false notion that discrimination is somehow a thing of the past.

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(Mary Newsom is an editorial writer for the Charlotte (N.C.) Observer, 600 S. Tryon St., Charlotte, N.C., 28202.)

Politics Today; A CONFIDENT WILSON By Jack W. Germond and Jules Witcover

WASHINGTON -- Pete Wilson didn't win two terms in the Senate and two as governor of California by being shy and deferential to other politicians and their opinions. So it should come as no surprise to find that he seems to have little patience with the conventional wisdom about his own campaign for the Republican presidential nomination.

One of the tenets of that wisdom as defined by some of his rivals is, of course, that no supporter of abortion rights can be the Republican nominee. But Wilson, who likes to describe himself as "pro-choice, not to be confused with pro-abortion," contends that more and more Republicans are coming to see that, as he puts it, "the issue has been settled" and it is time to move on to others.

But Wilson recognizes that candidates can be defined by a single vote or a single issue if they allow it to happen. So he runs down a list of his conservative positions on such concerns as crime, affirmative action and welfare reform and observes wryly, "A moderate is a pro-choice conservative."

A second tenet of the book on a Wilson candidacy is that a governor of a state as huge and distant as California cannot afford to give the time and personal attention to become a player in the Iowa caucuses or the New Hampshire primary and will have to rely too heavily on television advertising.

But, although reluctant to start talking game plans at this embryonic stage of his candidacy, Wilson dismisses the notion he won't have the opportunity for one-on-one campaigning as well as 30-second spots. "I think you've got to be there enough," he says, "so the television you do really responds to the audience you are attempting to reach." Even in a state as huge as California, he says, it's important to listen. "You can't sit in a studio in Los Angeles and make great television spots."

Iowa is obviously a special problem because of the running start Senate Majority Leader Bob Dole enjoys as both a neighbor from Kansas and as the winner of the caucuses there in 1988. And some political strategists believe Wilson and other rivals might be wise to concede the state to Dole and focus on New Hampshire.

There are, however, risks in such a strategy for anyone in the top tier of leading candidates, including Wilson. The most obvious is that Dole might commit the kind of political blunder that would make him vulnerable -- and thus allow some other rival, such as Sen. Phil Gramm, to upset him and become the overnight dragon slayer of his party.

Wilson is a little vague on his intentions in Iowa, although he is quick to point out that he grew up in neighboring Missouri and thus qualifies as a Midwesterner himself, as his flat accent seems to prove. Iowans, he assures a visitor to his hotel suite two blocks from the White House, are fine people and California is "full of Iowans" -- a testament that probably could be applied to most states.

In fact, however, the future of Wilson's campaign probably rests far less on tactical or even strategic decisions than it does on its basic thrust. "We can do well in a lot of different states because we've got a better story to tell," he says.

Over the years, Wilson says he has found "my own instincts and my own gut reactions very often reflect" the concerns of his constituents. That is clearly the reason, even his critics in California concede, that he has been either the first or among the first politicians to see the demand for things like three-strikes laws, action against illegal immigration and now against affirmative action. And, he says, if his competitors from the right want to assail him for the \$7 billion tax plan he promulgated to get the state through a financial crisis, "I would be delighted to compare records with anybody running." The state budget, he says, is \$1.5 billion below what it was when he took office five years ago because, he adds, "we've cut the hell out of it."

In the long run, the specifics of Wilson's record are not likely to be decisive with primary voters in New Hampshire or New York, Michigan or Illinois who will be making their judgments a year from now. They will be more interested in what they see of the candidates -- in person and on their television screens -- as potential presidents. And Pete Wilson seems determined to give them ample opportunity to look him over.

Leon/Lama

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THE WALL STREET JOURNAL TUESDAY, MARCH 28, 1995

SEC to Formalize Push for Disclosing Mutual-Fund Risks

Special to THE WALL STREET JOURNAL

WASHINGTON — Securities regulators today will formalize a dialogue with the mutual-fund industry to determine how to best tell investors the level of risk a fund carries.

The Securities and Exchange Commission's move will come at an open meeting where the agency has scheduled a vote to issue a "concept release" on fund-risk disclosures. Such a release is one step shy of a rule proposal and is intended to draw input from the industry, investors and others.

The SEC said the release will "request comment on a variety of means for improving risk disclosure, including narrative descriptions, numerical measures of risk, graphs and tables."

The issue of improving how mutual funds convey their risks was spotlighted last year when the value of several mutual funds fell sharply because of risky investments in derivatives went sour. Many of the losses occurred in money market funds, which are often considered conservative investments.

Derivatives are instruments whose values are derived from the price of underlying assets, such as currencies or stocks.

SEC officials began floating the idea of improving risk disclosures last fall. Another approach that will be studied by the SEC is drawing up new rules for explaining a fund's riskiness in the text of the prospectus. SEC Chairman Arthur Levitt already has pushed the fund industry to make prospectus language easier for investors to understand and it is likely any initiative on this front would include similar efforts.

The SEC probably will collect comments from the concept release for three months or longer. After that, consideration of whether to proceed with a formal rule proposal would begin. The earliest any rules drawn from this release could be in place is sometime in 1996.

HUD Is Scheduled To Auction Mortgages

Special to THE WALL STREET JOURNAL

WASHINGTON — The Department of Housing and Urban Development is scheduled to sell about \$1 billion of multi-family mortgages today.

This is HUD's first big auction under its plan to sell billions of dollars of multi-family mortgages that were insured by its Federal Housing Administration and assigned to the government when the borrowers defaulted.

The properties underlying the nonsubsidized, nonperforming mortgage loans are located in the Southeastern U.S. They include some high-rise apartments. HUD will be auctioning 177 mortgages today.

Over the next two years, HUD plans to sell about \$6 billion more multi-family mortgages and \$4 billion of single-family mortgages that have been assigned to the FHA.

Tax-Refund Delays Are Slowing Down Consumer Spending and the Economy

By LUCINDA HARPER

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — Delays in processing tax refunds are putting a damper on consumer spending and slowing the economy, economists say.

The Internal Revenue Service, in a crackdown on tax fraud, is more carefully reviewing returns that seek refunds and is delaying issuing refunds when it sees potential problems. As a result, refunds as of mid-March were running \$4.6 billion, or 17%, below last year's pace, according to IRS officials.

Analysts say the lag in refunds, which are averaging about \$1,040 this year, are partly to blame for weakness in consumer spending. "The refund problem is aggravating a pattern we were beginning to see anyway and that is consumers have slowed down their buying," says Paul Mastroddi, managing director of U.S. economic research for Morgan Guaranty Trust Co.

For its part, the IRS wouldn't comment on the economic impact of its new policy of checking Social Security numbers on filings requesting a refund. "The effect we are aiming for is to prevent \$1 billion to \$5 billion in erroneous refunds from going out the door," says IRS spokesman Frank Keith.

Mr. Mastroddi estimates that slow refunds shaved about two percentage points off retail sales in February. That means instead of falling 0.5% during that month, sales would have risen 1.5% had consumers received their money. Other economists estimate a one-percentage-point difference.

ence.

Analysts expect the impact of delayed refunds to be short-lived. "There should be a rebound in retail sales during March and April when the IRS checks finally arrive," says David Hale, chief economist of Kemper Corp. in Chicago.

Of course, there are more significant and perhaps longer-lasting reasons why consumer spending is off. Interest rates are up, cutting into home and auto sales. Job growth has slowed a bit, and Americans have slipped into a slightly worse mood, according to confidence polls. "I don't think slow refunds are responsible for the slowdown in spending, although it could be shifting spending from one month to another," says Alicia Munnell, assistant secretary for economic policy at the Treasury Department.

Still, research suggests a link between refunds and spending patterns. Matthew Shapiro and Joel Slemrod, University of Michigan economists, found in previous research that 43% of taxpayers let the timing of their refund affect their spending plans. "I would suspect it has a large impact on small-ticket durable-good items like appliances and nondurable goods like clothes," Mr. Shapiro says.

Many of those whose refunds have been delayed are lower-income taxpayers who file for an earned-income tax credit. Mr. Shapiro says that while one would expect poorer people to spend their refund as soon as they get it, research suggests spending patterns are basically the same across income levels.

Alas, Making Your Own U.S. Visas Requires Both Brains and Luck

By HENRY ODEN

Staff Reporter of THE WALL STREET JOURNAL

Of all the rubber-stamp stores in the world, Mohammad Hassan Hammoude had to walk into Melvin "Buddy" Gusdorf's shop.

Five years ago, Mr. Hammoude entered Baumgarten Co. in Washington, D.C., and asked Mr. Gusdorf to make him a stamp for reproducing a U.S. visa.

Alas for Mr. Hammoude. The late Mr. Gusdorf was the past chairman of the rubber-stamp trade association's Fraudulent Marking Device Committee. He called the Immigration Service.

Alas for the Immigration Service. When Mr. Hammoude returned, signals got crossed and the immigration agent staking out the store let Mr. Hammoude walk out with his stamp.

Alas for Mr. Hammoude. He couldn't get the multicolor stamp to work right, so he called Mr. Gusdorf and asked if he could bring it back. This time they got him.

Mr. Hammoude later told a jury he was just trying to print sample visas to be included in a pamphlet for tourists. But he was convicted of possessing materials to make a false identification document, counterfeiting a visa and making false impressions of a visa. He was fined \$200

and sentenced to four months in jail, plus a period of house arrest and supervised release. He paid the fine and finished the jail term. The rest of his sentence was suspended pending appeal.

Alas for the prosecutors. The federal appeals court earlier this month ruled that a visa isn't an official identification document. The court said Mr. Hammoude wasn't counterfeiting, either. The evidence for that charge consisted merely of a piece of paper Mr. Hammoude folded over the stamp.

There was still that false-impressions charge, however. Mr. Hammoude's lawyer, Sandra Roland of the public defender's office, wanted it thrown out because some of the evidence was inadmissible. But the appeals court said the remaining evidence, which included photocopies of a sample visa, was overwhelming.

Ms. Roland suggests Mr. Hammoude can go back to the trial judge and try to get the rest of his sentence dropped. He'll also get \$150 of his fine back. For his part, Mr. Hammoude wants full exoneration and vows to take his case to the Supreme Court. He faces a lot of hurdles before he can get the other \$50 back. Alas for Mr. Hammoude, he can't get back the four months he spent in jail.

Untidy Cleanup

Mess at A-Bomb Plant Shows What Happens If Pork Gets Into Play

Outlays to Curb Pollution At Hanford Complex Run Billions, Achieve Little

Deficit Foes Face a Dilemma

By TIMOTHY AEPPEL

Staff Reporter of THE WALL STREET JOURNAL

RICHLAND, Wash. — Imagine a vast network of government-owned factories that have produced nothing in years — yet with a work force that has swelled to more than 18,000 people and a cost to taxpayers that is nearing \$3,000 a minute.

This is Hanford Nuclear Reservation, where workers are supposed to be mopping up pollution caused by years of atomic-bomb making but instead spend most of their time shuffling papers and keeping watch over crumbling buildings.

"What all of them are actually doing is kind of a mystery," says Gregory de-Bruler, a local environmentalist. Tapping his coffee mug, he adds, "but I know it involves a lot of this."

Sprawling over a dusty desert half the size of Rhode Island, Hanford is a "train wreck" of government spending, a Senate panel has complained. And there is no end in sight, despite all the brave talk about reining in the federal deficit.

The Old Pork Barrel

Hanford shows what happens when an awesome environmental threat gets linked to pork-barrel politics. Many Republicans see the extremely costly cleanup efforts here—\$7.5 billion has been spent already—as an obvious place to start slashing government spending. Yet Hanford, like most old bomb factories, is in staunch GOP territory—and some Republicans are fighting to keep the money flowing.

So, the Republicans will find it tougher than expected to curb Hanford's spending. "They don't want to admit this is a jobs issue, but that's what's driving it," says Leo Duffy, a Bush administration official who launched the cleanup in 1989. Cutting fat, he adds, means cutting jobs in GOP districts.

That explains why Hanford's new voice in Congress, Rep. Richard "Doc" Hastings, is fighting to protect the cleanup while backing a balanced budget and a middle-class tax cut. Hanford is the biggest employer in the freshman Republican's district—and salaries at the complex average a relatively lofty \$43,000. A recent series of newspaper articles in the Spokane, Wash., *Spokesman-Review* detailed not only the wasteful spending at Hanford but also the local economic boom it has sparked. Average new-home prices in the area, for instance, have soared to about \$113,000 from \$69,000 in early 1991.

Federal Regulations Cited

Rep. Hastings says there is nothing contradictory about his approach. "We need to get a better bang for taxpayers' dollars," he says, adding that the solution isn't to cut spending blindly. He plans to soon introduce legislation that would free Hanford from having to satisfy a web of federal regulations that often conflict with each other — slowing the cleanup and driving up costs. Some Republicans in Congress favor using risk assessments to target Hanford's most-immediate environmental threats and leaving much of the less-dangerous waste alone. Under this "iron-fence" solution, parts of Hanford would simply be off-limits.

Besides Hanford, 16 major weapons facilities are being cleaned up. And examples of waste abound — like a New Mexico laboratory that left computers out in the rain, wrecking them. But Hanford's sheer size makes it the prime target for people eager to cut the budget.

A jolt is coming this week when the Department of Energy discloses its best guess of the cost of cleaning up the old factories at all 17 locations and dozens of other, smaller sites over the next 75 to 100 years. In the latest calculation, last summer, the DOE gave the White House a minimum estimate of \$400 billion. The new figure is expected to be lower. "It has to be," says one DOE official, who says some in Congress have warned that it better not be so eye-popping.

Action by Administration

Hoping to beat Congress to the punch in curbing spending, the Clinton administration has told Hanford to shed nearly 4,800 of its workers, who are mostly nonunion, over the next several years and to hack \$250 million from its \$1.5 billion cleanup budget for fiscal 1996.

At Hanford, most of the spending so far by the Department of Energy, which oversees the cleanup, has gone for studies of things such as Hanford's 177 underground waste tanks, many of which are leaking. Money also goes to baby-sit waste, like guarding contaminated buildings, or watching to see whether pollution poured on the soil years ago is seeping into the nearby Columbia River.

More difficult to explain is the growth of the work force. Six years into the cleanup, it totals thousands more than when the workers were making bombs. Many workers themselves complain there are three people for every job.

Hanford managers deny this, saying they have had to add large numbers of engineers and others with specialized skills in recent years to manage the unique aspects of the cleanup. "What we're doing now is what most corporations have already done," says John Wagoner, the top

Please Turn to Page A6, Column 1

Continued From First Page

DOE manager at Hanford. "We're reviewing all our processes and figuring out how to do the work with fewer people."

Meanwhile, Hanford's lead contractor, Westinghouse Hanford Co., a subsidiary of Westinghouse Electric Corp. of Pittsburgh, once bought computer-software packages such as Lotus 1-2-3, while throwing out the same things elsewhere at the facility. In another case, it lost track of hundreds of expensive cellular telephones.

Westinghouse says it fixed those problems. And responding to recent criticism over wasteful spending, it says it has made progress in curbing costs and achieving cleanup goals. "Our costs continue to be higher than we like," says James L. Gallagher, executive vice president of Westinghouse Government & Environmental Services Co., but he lays the main fault to the web of legal and regulatory requirements that govern the work.

Even critics of the cleanup admit that the operators can't simply turn their backs on the waste; some of it is in tanks that could blow up, or it could dribble into water supplies. Another concern is Hanford's plutonium, a material so deadly it can kill and cause disease even in minute doses. The DOE estimates that Hanford has 11 metric tons of the stuff. Much of it is locked in spent fuel, but about 3.8 metric tons is pure enough to be a threat if stolen by terrorists. Only a few kilograms are needed to make a bomb.

In addition, nobody knows how much plutonium was poured into the ground over the years. For decades, plutonium-laced waste was dumped into pits; scientists thought it fused with the soil and didn't move. But they were wrong. This is one reason Hanford's groundwater will need perpetual monitoring.

Proposed Moving Job

A congressional report released earlier this month concludes that some of the cleanup ideas not only are costly but seem dumb. For example, officials propose to separately drag eight 16,000-ton reactor cores, now nestled in buildings along the river, to a plateau miles away to be buried. But the only vehicle capable of moving such monster loads is two space-shuttle movers tied together; and they would require a special road. The price tag: more than \$500 million. Even then, radioactive isotopes inside the cores might eventually leak into the ground later.

DOE officials put such a removal far in the future. "That's pretty far down our priority list," says Mr. Wagoner, the Hanford manager. As for the possibility of radioactivity seeping into the ground, he says the idea is to get the reactor cores away from the river so that the contamination can't spread so easily into the water.

"The trouble is, you have this massive cleanup being driven by questions for which we still don't have the right answers," says Steven Blush, the former DOE official who co-wrote the Senate Energy and Natural Resources Committee's report. "In a situation like this, it's impossible not to waste money."

Even doing nothing devours money. One of Hanford's plutonium-laced processing plants costs \$34 million a year just to maintain and watch over. "These aren't places where you can switch off the lights and leave," says Thomas Carpenter, the Seattle-based representative of the Government Accountability Project, which is monitoring the cleanup.

Untidy Cleanup: Mess at A-Bomb Complex Shows What Happens When Pork Meets a Real Problem

Another money pit sits under 16 feet of water inside two windowless concrete hulks near the Columbia's banks. Known as the "K Basins," the huge pools hold more than 100,000 rotting fuel slugs — the long rods used inside reactors.

The slugs were supposed to stay here a few months before going to a nearby facility for reprocessing, but the end of the Cold War stalled them in these tanks. "We don't have much time to get them out of here," says Victor Hoefer, a Hanford engineer as he leads the way across a metal grill suspended above one tank. Orange and purple signs with radioactivity symbols and the words "Surface Contamination" dot walls and pipes. As the fuel corrodes, it releases plutonium, uranium and strontium-90 into the water. Moreover, the basins are leaking, and a deadly slime is forming in the bottoms of the tanks.

Doing nothing to clean up the K Basins costs \$40 million a year, spent on things such as keeping the antique ventilation system pumping and the salaries of people trying to patch the leaks. Hanford officials have a grim term for this: the "mortgage." An actual cleanup will cost another \$100 million, according to Westinghouse. And that will get the rods and slime only into dry containers in an "interim storage" building away from the river.

A Bill From the Past

To environmentalists, all this is just a tab for the Cold War, but they gripe that while weapons were long politically popular, the cleanup isn't. "As soon as something becomes an environmental problem and not a defense program, it's like a shadow falls over it," says Gerald Pollet, executive director of Heart of America Northwest, a Seattle group monitoring Hanford. He deplores the cutbacks because most of the money is coming out of actual cleanup work; cutting the fat remains elusive. Contractors are still charging hefty overhead, he says, including multimillion-dollar legal bills stemming from the cleanup.

Many observers also argue that the cuts will push future costs higher because they are just delaying work that must be done anyway. Indeed, Hanford's cleanup is dictated by a legal agreement worked out among the DOE, the Environmental Protection Agency and the state of Washington. But now the DOE is trying to renegotiate it to allow for the less-extensive cleanup that it envisions.

However, even environmentalists concede that fighting for Hanford's funding is awkward when so much is wasted. "I have this dilemma when I go to lobby on Capitol Hill," says Todd Martin, another local activist. "Do I say, 'You've got to spend this money,' when I know they're throwing a lot of it down a rat hole?"

Everyone has a favorite example. One is the "grout vaults" — gigantic pools that

were supposed to hold radioactive waste. The waste was to be mixed with concrete and poured into the pools and left to dry. But after spending \$200 million to design and build the mixing plant and the first set of four vaults, a test run showed problems getting the stuff to harden. Then local activists learned there were to be 241 of the pools — which would have spread contamination far into clean parts of the surrounding desert. The project was killed.

The DOE says it still hopes to figure out a use for the pools. But for now, the complex sits nearly abandoned. "We just have a few people there," a Hanford spokesman says. "You know, keeping an eye on it."

The cleanup got so off track largely

because of the way the bombs were built. Racing to complete the facility, the government invited companies to do the work under contract. All that mattered was delivering the product; cost and environmental damage were secondary.

Some say little has changed. "The contractors working for the DOE have been at the public trough so long," contends Mr. Duffy, the former DOE official, "they don't know how to change their diet." He says the contracts make it rational to hire as many employees as possible because this tactic hoists profits. But at Westinghouse, Mr. Gallagher says that that's "dead wrong" and that the DOE contract includes incentives paid only for good performance. "Our incentive is to do the job to the highest quality," he contends.

The contractors also have a lot of control over how the cleanups are done, a fact that can lead to strange results as well. For instance, Westinghouse recently proposed sending barrels of lightly contaminated waste such as plastic and paper to a Westinghouse subsidiary in Oak Ridge, Tenn., to be compacted — then shipped back to Hanford for disposal.

A Westinghouse spokeswoman explains the contract envisioned building a plant in Richland. Only in the meantime, she says, was the idea of sending waste cross-country considered. "This contract was competitively bid," she says, adding that the company intended to charge the same for compacting services in either place. The DOE canceled the plan after a local company that offered the service objected; the local firm is now compacting the waste.

Mr. Wagoner, the Hanford manager, cites the recently completed laundry, which replaces an outmoded facility for cleaning such items as contaminated work clothing, as an example of how he wants to change things. He figures that building it, using normal methods, would have cost \$25 million. Any DOE facility, even one built and operated by a company under contract, must meet a maze of costly special requirements ranging from seismic reinforcements to fire codes. By inviting an outside firm to build and operate the laundry outside Hanford's gates, the DOE cut the cost to \$5 million.

Thomas Grumbly, the DOE official overseeing the cleanup, admitted last year that Hanford wastes one in every three dollars spent. But by the end of this year, he predicts, the wasteful spending should be "cut in half."

Meanwhile, the leaner times are being felt already. Some people are worried in towns such as Richland, with its "Atomic Bowling Center" and a mushroom cloud as the symbol of its high-school teams. And the gloom stretches to Hanford's quirky Museum of Science and History, where visitors can learn tidbits such as how many doughnuts were consumed daily here in 1944 (30,000) or buy an "atomic marble" (a clear glass ball dosed with gamma radiation to turn it murky brown).

"Everybody's worried about what will happen, and that puts stress on families," says Kali Hale, a mother of nine whose husband works at the facility. Watching her 12-year-old son, Zackary, assemble a puzzle inside a glass-walled glovebox, a device normally used to handle radioactive material, Mrs. Hale says she is confident her husband's position is secure.

But the museum itself is a different story. It costs Hanford about \$1 million a year, and the push to trim budgets is threatening to kill it. That would be a shame, says Gwendolyn Leth, a Westinghouse employee who manages it. It recently underwent a major renovation, she explains. Before that, it barely mentioned environmental problems.

THE PRESIDENT HAS SE-
4/4/95

Leon
Do we need
to re-evaluate this?
RC

THE WHITE HOUSE

WASHINGTON

April 4, 1995

The Honorable Robert J. Miller
Governor of Nevada
Carson City, Nevada 89710

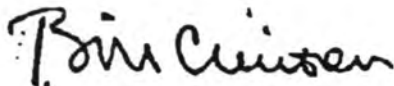
Dear Governor Miller:

It was good to talk to you recently on your concerns about the civilian nuclear waste program. As you know, I am committed to implementing this program in a way that is objective and fair to the citizens of Nevada and the rest of the Nation.

Recent news reports identify important issues that need to be resolved. With respect to proposals that would create an interim storage facility at Yucca Mountain, I want to make it clear that at this time my Administration cannot support any legislation currently before the Congress.

I look forward to continuing our discussions on this. I know you understand the national interests involved here. I welcome your perspective on how to deal with these issues in a constructive and equitable manner.

Sincerely,

A handwritten signature in cursive script, reading "Bill Clinton".

THE WHITE HOUSE

WASHINGTON

April 4, 1995

The Honorable Harry Reid
United States Senate
Washington, D.C. 20510

Dear Senator Reid:

I am aware of your concerns about the civilian nuclear waste program. As you know from our previous discussions, I am committed to implementing this program in a way that is objective and fair to the citizens of Nevada and the rest of the Nation.

Recent news reports have identified important issues that need to be resolved. With respect to proposals that would create an interim storage facility at Yucca Mountain, I want to make it clear that at this time my Administration cannot support any legislation currently before the Congress.

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THE WHITE HOUSE

WASHINGTON

April 4, 1995

The Honorable Richard H. Bryan
United States Senate
Washington, D.C. 20510

Dear Senator Bryan:

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I look forward to continuing our discussions on this. I know you understand the national interests involved here. I welcome your perspective on how to deal with these issues in a constructive and equitable manner.

Sincerely,

Bill Clinton



Potus
Said to send
letter.

Done
4-6-95
TO Dorskind



THE WHITE HOUSE

WASHINGTON

March 10, 1995

RECOMMENDED TELEPHONE CALL

TO: Muriel McCloy

DATE: Whenever possible

RECOMMENDED BY: Senator Kennedy through Susan Brophy *SB*

PURPOSE: To express your outrage about the terrorist attack on her son in Karachi, Pakistan and to offer your best wishes.

BACKGROUND: Mark McCloy works at the Consulate in Karachi and was injured during the terrorist attack on Wednesday. He is currently in stable condition in a hospital in Karachi.

Mark's mother Muriel McCloy is a Democratic activist in Massachusetts. She helped organize the President's rally in Framingham this fall. Senator Kennedy recommends that the President call Mrs. McCloy if his schedule permits.

CONTACT PERSON AND
TELEPHONE NUMBER(S): Muriel McCloy
508-626-0788

DATE OF SUBMISSION: March 10 , 1995

ACTION: _____

THE WHITE HOUSE
WASHINGTON

95 APR 7 P4:25

OFFICE OF THE STAFF SECRETARY

Fax Transmittal Sheet

TO: *Eli Segal*

Fax Number: *565-2784* Phone Number:

FROM: *Fran Wessell*

SUBJECT:

DATE: *4-7*

NUMBER OF PAGES (including cover sheet): *3*

MESSAGE:

CC went to Dan Burkhardt

If all pages are not received, please call 202/456-2702

The document accompanying this facsimile transmittal sheet is intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited.

THE PRESIDENT HAS SEEN 4/7

THE WHITE HOUSE
WASHINGTON

April 6, 1995

MR. PRESIDENT:

The attached is a note from Eli Segal recommending that you agree to be honorary chair of the National Day of Service on April 25. Eli reports that President Bush has agreed to be an honorary chair if you join him.

This honorary chairmanship would require none of your time. Leon and George both approve.

Agree ☒

Disagree ☐

Discuss ☐

John Podesta
Todd Stern *Todd*

March 29, 1995

CORPORATION
FOR NATIONAL
★ SERVICE

MEMORANDUM FOR Leon Panetta

FROM: Eli Segal *E. Segal*

SUBJECT: National Day of Service

Beyond the current rescission battle, national service's long term future is tied to bipartisan support. That's why we've gone from comparative indifference in previous years to real support for the 20 year old National Volunteer Week (scheduled for the week of April 24 and April 28). Mark Gearan and Billy Webster are helping us design an overall plan to identify the President with this week's activities.

I'm writing to you about one element of the week: which we've created this year: the National Day of Service on April 25. Some of our Republican friends have persuaded President George Bush to be honorary chair of the day, and he has agreed if President Clinton were to join him.

Wearing both my political hat and my AmeriCorps hat, I think it's a good idea: it locates common ground for the President with George Bush, just like NAFTA; it sends a bipartisan signal to a program under partisan assault; it ties us to several prominent businessmen whose support we have been seeking; and it helps us focus AmeriCorps as "more than just a government program", as part of an ethic of service which embraces George Bush's Points of Light vision as well as our own vision.

While it will require none of the President's time and the investment of no political capital, its symbolism and rhetorical possibilities are rich with opportunities.

If the White House response is positive, a prompt indication would be enormously helpful not only for the long term but for the rescission debate as well.

Many thanks.

1201 New York Avenue, NW
Washington, DC 20525
Telephone 202-606-1000

Getting Things Done.
AmeriCorps, National Service
Learn and Serve America
National Senior Service Corps

THE WHITE HOUSE

WASHINGTON

April 7, 1995

MEMORANDUM FOR MIKE MCCURRY

THRU: JOHN PODESTA

FROM: JIM DORSKIND

SUBJECT: EASTER SUNDAY, 1995

A handwritten signature in black ink, appearing to be "JP", is written over the names "JOHN PODESTA" and "JIM DORSKIND".

Attached are copies of the President's message for EASTER SUNDAY, 1995, which you may want to release to the media.

Thank you.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

EASTER SUNDAY, 1995

Warmest greetings to everyone observing Easter Sunday.

On this day of great hope and promise, Christians the world over celebrate God's redemptive grace as manifested in the life and teachings of Jesus of Nazareth. This day symbolizes the victory of good over evil, hope over despair, and life over death. Rejoicing in the miracle of Easter, we pledge anew to hold in our hearts Christ's message of peace and joy.

As springtime returns to our corner of the earth, we are reminded of the beauty of new beginnings. Our faith in God lifts our spirits, and many Americans step back from the concerns of daily life to reflect on the power of our religious traditions and on the values they teach us. During this time of renewal, let us all thank God for the countless wonders of creation and rededicate ourselves to the common ideals that have made ours a land of infinite blessings.

Hillary joins me in extending best wishes to all for a joyous Easter celebration.

WILLIAM J. CLINTON

#

THE WHITE HOUSE

WASHINGTON

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Bill Clinton

THE WHITE HOUSE

WASHINGTON

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Hillary joins me in extending best wishes to all for a joyous Easter celebration.

Bill Clinton

THE WHITE HOUSE

WASHINGTON

April 4, 1994

MR. PRESIDENT:

Attached is a memo from Tony Lake and Pat Griffin advising that you approve Secretary Perry's recommendation to posthumously appoint Cadet Johnson Whittaker as a 2nd Lt. The FY 1995 Defense Authorization Act directed the review of this 1880 case and authorizes you to make this appointment.

Whittaker, a black cadet appointed to West Point from South Carolina in 1876, faced considerable ostracism there. In April 1880, after appearing to be the victim of a violent assault -- he was found bloodied and unconscious, tied to the side of his bed -- he was charged with faking the attack to avoid academic failure and generate sympathy.

Whittaker was convicted in a dubious court-martial. In the end, President Arthur set the conviction aside on narrow grounds, but Whittaker was discharged from West Point anyway for deficiency in a June 1880 examination -- the same result urged by the court-martial.

Secretaries Perry and West now recommend Whittaker's posthumous appointment as an officer to correct the injustice done. They do not recommend the awarding of a West Point degree, since Whittaker's academic deficiency has not been deemed the result of racial prejudice. Tony and Pat concur.

Approve ☒

Disapprove ☐

Discuss ☐

John Podesta
Todd Stern

THE WHITE HOUSE

WASHINGTON

March 17, 1995

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH:

EXECUTIVE CLERK

FROM:

ANTHONY LAKE
PATRICK GRIFFIN

SUBJECT:

Posthumous Appointment of Cadet Whitaker

95 MAR 20 87:52

Purpose

Approval of posthumous appointment of Cadet Whitaker to Second Lieutenant in the Regular Army.

Background

NSC concurs in the recommendation from Secretary Perry at Tab B. It should be noted that the effect of this action is for you to appoint posthumously Cadet Whitaker as a 2nd Lt in the Regular Army. This is based on the determination by Secretary West and Secretary Perry that he was clearly worthy in 1880 to have served as an officer, whether as a prospective graduate of the U.S. Military Academy (USMA) or from some other commissioning source (e.g., Officer Candidate School or a battlefield promotion). That he was denied this opportunity, in the two Secretaries' judgment, was an injustice.

The action does not, however, retroactively award him a USMA degree or otherwise declare him to be a graduate of West Point. This is because the two Secretaries have determined that his discharge for academic deficiency was not unjust or the result of racial prejudice.

Upon your approval of this recommendation, the Army will arrange a ceremony at USMA at which the Superintendent, General Graves, will present 2nd Lt Whitaker's family a West Point sword. We will also notify the appropriate members of Congress, including Senator Hollings, who sponsored the amendment to the FY 1995 defense authorization act that required this review.

RECOMMENDATION

That you approve the recommendation of Secretary Perry and sign the Commission at Tab A.

cc: Vice President
Chief of Staff

Attachments

Tab A Commission

Tab B Secretary Perry's letter

The White House

Washington

The following named officer will be issued a posthumous commission to the regular grade indicated under the provisions of Section 555 of the National Defense Authorization Act for Fiscal Year 1995.

ARMY

to be Second Lieutenant

Johnson Chestnut Whittaker

William D. Clinton



THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1000

22 SEP 1994

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Posthumous Commission of a Former United States
Military Academy Cadet

I recommend that, under the provisions of Section 555 of the National Defense Authorization Act for Fiscal Year 1995, you issue a posthumous commission to Johnson Chestnut Whittaker as second lieutenant in the Regular Army.

Johnson Chestnut Whittaker attended the United States Military Academy (USMA) from September 1, 1876 to June 1880. He was officially discharged from USMA for academic deficiency on March 22, 1882. The historical record reveals that, by reason of his race, Mr. Whittaker was unfairly deprived of the opportunity to serve his country as a commissioned officer despite his evident willingness and ability to serve. Accordingly, a posthumous commission is requested.

The Secretary of the Army agrees with this action.

William J. Perry

Attachments

THE WHITE HOUSE
WASHINGTON

April 4, 1995

95 APR 4 P5:32

MEMORANDUM FOR THE PRESIDENT

FROM: DOUG SOSNIK

SUBJECT: WEEKLY REPORT

PRESIDENTIAL POLITICS

Iowa. Jesse Jackson will be in Iowa on Wednesday, addressing a state convention of social workers and taping an interview with Iowa Public Television.

Bob Dole. See clips on Iowa and New Hampshire.

Phil Gramm. Gramm recently picked up the "Ronald Reagan Freedom Fighter Award" at a meeting of the California Republican Assembly, a group of California's most conservative political activists. Pat Buchanan, Bob Dornan and Allan Keyes also attended. Gramm continues to pace the pack in terms of organizing in the southern Super Tuesday states. Gramm announced the endorsements of 63 North Carolina GOP activists last week. He also announced that Bill Graham, who directed Bush's successful effort there in 1988, would be a state co-chair.

Fundraising. Lamar Alexander called a press conference in D.C. to trumpet the \$5 million he has raised during the first three months of 1995, calling it a record. Gramm upstaged him, however, by releasing a figure saying he raised \$8.5 million during the period. Dole's campaign said they have raised slightly over \$4 million.

Governor Wilson stumbled a bit on his first visit to New Hampshire. When asked if he would take "the New Hampshire pledge," he did not know what it was. He also could not name a single supporter in the entire state. Governor Steve Merrill (R-NH), upon whom Wilson paid a courtesy visit, reportedly believes that he has no support there. Merrill also is not thrilled with Phil Gramm, whom he blames for Arizona's and Louisiana's attempts to hold earlier primaries/caucuses.

Meanwhile, Lt. Governor Gray Davis talked openly of retaliating against Wilson for proposing an initiative eliminating the LG's right to succeed the governor. He suggested an initiative docking the governor's pay for each day he spends campaigning out of state.

New York. Gramm, Alexander and Wilson fundraised in New York City last Monday, Tuesday and Wednesday (3/26-3/28). Every major Republican other than Mayor Giuliani has endorsed Dole to date, at the urging of Senator D'Amato and Republican Party Chairman Bill Powers. Gramm received significant press for his vigorous attacks on D'Amato for trying to lock out Republicans other than Dole. Giuliani made a big show of announcing Tuesday that he would meet with Wilson first, and then meeting, touring and lunching with him on Wednesday. Giuliani still refuses to endorse anyone, however, and has called for an open primary so that NY issues are focussed on by Republicans during the campaign.

Pennsylvania Presidential Primary. An effort is being led by Democratic Representative Harry Readshaw of Allegheny County to move the state's presidential primary date. The Pennsylvania presidential primary is currently scheduled for the last Tuesday in April. Readshaw proposed a bill that would set the primary date for the third Tuesday in March, which would coincide with primaries in Ohio, Illinois, Michigan and possibly Wisconsin. Readshaw announced last week that the GOP leadership in the House has agreed to support the primary date move for March 19th. A final vote on the primary date change is expected to take place in May, following the April recess.

1995 RACES

Mayoral Races. Mary Rhodes avoided a run-off and was re-elected Mayor of Corpus Christi on April 1st. She placed first with 51%; her closest rival in the four person field scored 29%. Although the office is non-partisan, Rhodes is a Democrat.

1995 Mississippi Gubernatorial Race. The Mississippi 1995 legislative session ended Friday on a sour note for Republican Governor Kirk Fordice. Last week Fordice attempted to sneak through a last minute amendment to a bill that would allow him to forego administrative procedures on certain policy issues, such as environmental regulations. Democratic leaders in the House were able to block the amendment in the last hours of the session. In addition, Fordice proposed moving the collection of child support payments from "dead beat dads" from the state department of Health and Human Resources to the Maximus Corporation, a private collection agency. Local union leaders actively supported Democratic legislators in preventing this move. The key victory for the Democrats in the 1995 session, particularly the Molpus campaign, is Fordice's failed tax initiative. The Fordice Administration proposed state and income tax cuts which would have benefitted the wealthiest 40% of the population. While the governor's tax plan was defeated, the Democrats successfully engineered a reduction in the sales tax on groceries.

Denver Mayoral Race. City Council member Mary DeGroot received a major boost from the endorsement of the Rocky Mountain News over the weekend. The endorsement propels her to the clear position of leading challenger to Mayor Webb. The Denver Post should endorse within a week, and is unlikely to choose Webb because of longstanding conflicts over the Denver International Airport.

1996 RACES

1996 Alabama Senate Race. Senator Heflin's announced retirement has led to hot speculation over possible candidates in the 1996 open race. Prominent Democrats being mentioned in the 1996 race include Lt. Governor Don Siegelman, Representatives Glen Browder and Bud Cramer, and state Democratic Party Chair Bill Blount. Attorney General Jeff Sessions is considered by Democratic leaders to be the strongest possible candidate for the GOP nomination. Democrats in the state are worried about the role Shelby will play in the 1996 race. In a match-up against Heflin, Shelby was expected to remain a neutral bystander; however, in an open race, he is expected to be a strong advocate for the Republican nominee. The Democratic Party of Alabama commissioned polling research in early March on the 1996 race. Heflin tested with a job approval rating of approximately 59% and your job approval rating among all voters was approximately 38%. Senator Shelby remains the most popular elected official in the state. On the whole, voters considered both the Democrats and the GOP to be the parties of extremes, with neither party looking out for the interests of the middle class.

Dan Quayle. A top aide to Quayle said last week that he "has not yet decided" whether to run for governor but will make his intentions known by Memorial Day.

Senate: South Dakota. State politicians are already salivating over the looming battle between three-term Sen. Larry Pressler (R) and five-term Rep. Tim Johnson (D). Neither candidate has formally announced, but Pressler says he "plan[s] to run" while Johnson says that he has begun to "accelerate my fundraising ... to preserve my options." Johnson has also kept his campaign office open and has been doing opposition research on Pressler for several months.

Senate: Iowa. State Rep. Steve Grubbs (R) has filed papers with the FEC to challenge Sen. Tom Harkin (D) next year. He plans to open a campaign office in May or June. Most of the more serious potential challengers have not made their plans clear but Grubbs said he did not feel he could "sit around and wait" to see how the field shakes out.

OTHER POLITICAL NEWS

Affirmative Action. A California State Senate committee killed the proposed affirmative action constitutional amendment on a party line vote last week. Since the measure requires a 2/3 vote of both houses and the Senate was considered the easier of the two houses, it is highly unlikely the amendment will be placed on the ballot by the legislature. Thus, it is virtually certain that Republicans will circulate petitions to qualify the initiative for the November, 1996 ballot. A conservative Colorado group is currently working to qualify a similar measure for their state's November ballot.

Governor Whitman. Governor Whitman is the focus of a campaign against her efforts to weaken New Jersey's pollution prevention law. Last week, the Environmental Federation began running radio spots against her, and several newspapers, including the Newark Star Ledger ran editorials attacking her on this issue. Otherwise, she remains popular, although the effect of her state income tax cuts on local property taxes is beginning to take hold as a public issue.

New Jersey Republican Party Changes. Governor Whitman is moving to replace current Republican Party Chair Lytell with Chuck Haytaian, Senator Lautenberg's former opponent.

New York Party Chairs. On Monday, April 3, the New York State Democratic County Chairs met to select for the first time ever, co-chairs for the party. The new co-chairs are Judith Hope, a former supervisor from East Hampton and former New York State Party Vice Chair, and John Sullivan, the former Mayor of Oswego (a small upstate town). There was some controversy leading up to this meeting from rankled county chairs who were capitalizing on recent press reports highlighting a lawsuit linking Sullivan to political bugging of his Republican opponents when he was Mayor. (See Troy Times clip attached.) The meeting, however, ran smoothly and Hope and Sullivan were unanimously elected. The first order of business for the new co-chairs will be retiring the \$750,000 party debt.

THE PRESIDENT HAS SEEN 4/7

THE WHITE HOUSE
WASHINGTON

April 6, 1995

MR. PRESIDENT:

The attached is a note from Eli Segal recommending that you agree to be honorary chair of the National Day of Service on April 25. Eli reports that President Bush has agreed to be an honorary chair if you join him.

This honorary chairmanship would require none of your time. Leon and George both approve.

Agree ☒

Disagree ☐

Discuss ☐

John Podesta
Todd Stern *Todd*

March 29, 1995

CORPORATION
FOR NATIONAL
SERVICE

MEMORANDUM FOR Leon Panetta

FROM: Eli Segal *ES*

SUBJECT: National Day of Service

Beyond the current rescission battle, national service's long term future is tied to bipartisan support. That's why we've gone from comparative indifference in previous years to real support for the 20 year old National Volunteer Week (scheduled for the week of April 24 and April 28). Mark Gearan and Billy Webster are helping us design an overall plan to identify the President with this week's activities.

I'm writing to you about one element of the week: which we've created this year: the National Day of Service on April 25. Some of our Republican friends have persuaded President George Bush to be honorary chair of the day, and he has agreed if President Clinton were to join him.

Wearing both my political hat and my AmeriCorps hat, I think it's a good idea: it locates common ground for the President with George Bush, just like NAFTA; it sends a bipartisan signal to a program under partisan assault; it ties us to several prominent businessmen whose support we have been seeking; and it helps us focus AmeriCorps as "more than just a government program", as part of an ethic of service which embraces George Bush's Points of Light vision as well as our own vision.

While it will require none of the President's time and the investment of no political capital, its symbolism and rhetorical possibilities are rich with opportunities.

If the White House response is positive, a prompt indication would be enormously helpful not only for the long term but for the rescission debate as well.

Many thanks.

1201 New York Avenue, NW
Washington, DC 20525
Telephone 202-606-1000

Getting Things Done.
AmeriCorps. National Service
Learn and Serve America
National Senior Service Corps

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN
4/6/95

April 6, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN PODESTA
TODD STERN

SUBJECT: Programs for Native Hawaiians

<< Rivlin
Pamella
Jack Lew

The attached memo from Alice Rivlin follows up on a recent meeting you had with the Hawaii delegation and discusses four issues of interest to them. On two of these – the Native Hawaiian Revolving Loan Fund (NHRLF) and Sen. Akaka's proposal to reclassify Hawaiians in statistical collections – there are no decision points: we sent the NHRLF bill to the Hill last week and the Akaka proposal is being considered by OMB as part of their formal review of statistical standards. On the other two issues, there are decisions.

Vocational Education. Your FY 96 budget would consolidate a number of categorical voc/ed programs, including a set-aside in current law for Native Hawaiians (.25% of the combined amounts for the Basic State Grants and National Programs). The state of Hawaii would still get its money, but the set-aside would be eliminated. (The set-aside for American Indians would not be consolidated, owing to the special status of American Indian reservations.) The Hawaiian set-aside could be restored without affecting the budget, but the funds set-aside would become unavailable for other potential grantees. Sec. Reilly hopes to send the consolidation bill up this week – with or without the Hawaiian set-aside.

Thus, your options are (i) to allow the set-aside to be eliminated, as part of the consolidation, or (ii) to restore the set-aside. Alice makes no recommendation. Neither does Leon or George.

Let set-aside be eliminated ___ Restore set-aside ☒ Discuss ___

Education for Native Hawaiians. This \$12 million program was first authorized in 1988 to meet the special educational needs of Native Hawaiians. Because it is largely duplicative of other programs which provide funds to Hawaii, your budgets have requested no funds for it. Restoring funds would require either (a) establishing a new set-aside in an existing program, or (b) amending the budget to restore funding while finding an offset elsewhere.

Your options are (i) not to restore funding, (ii) establish a new set-aside, (iii) find offsets. George strongly opposes a new set-aside at this time, but has no preference between the other options. Alice makes no recommendation. Neither does Leon.

Not restore ___ New set-aside ___ Find offsets ☒



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

95 APR 4 8:45

THE DIRECTOR

April 3, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: Alice M. Rivlin *AMR*

SUBJECT: Programs for Native Hawaiians -- DECISION

After meeting with the Hawaii delegation on Tuesday, you indicated your intention that our policy should change in several areas. This memo recaps the issues that you expressed concern over, discusses options, and requests your decisions.

1. Native Hawaiian Revolving Loan Fund (NHRLF): The NHRLF provides loans to Native Hawaiian business owners who are unable to obtain capital from other sources, or on reasonable terms and conditions. The Federal government gives about \$1 million each year to the Office of Hawaiian Affairs (OHA) to run this program, for a total of about \$6 million in funding to date. The NHRLF was authorized as a demonstration program in the original Act. The Department of Health and Human Services proposed to permanently reauthorize the program.

The Hawaii delegation asked you to send the HHS reauthorization bill to the Hill. At the time of your meeting, the HHS reauthorization bill was being reviewed by George Stephanopoulos for consistency with the Administration's policy on affirmative action, and OMB clearance of the bill was on hold pending George's sign-off. Subsequent to your meeting with the Hawaii delegation, George and Leon Panetta approved sending up the bill. The bill was sent to the Hill last week, and the Hawaii delegation is pleased with our action.

2. Vocational Education: Current law contains a number of different programs in addition to set-asides for Indians and Native Hawaiians: 0.25 percent of the combined amounts appropriated for the Basic State Grants and National Programs is set aside for Native Hawaiians; 1.25 percent for Indians. For FY 1995, \$2.5 million is set-aside for Native Hawaiians; \$12.5 million for Indians.

As part of the youth component of the GI Bill for America's workers, the FY96 budget anticipated consolidating all the categorical vocational education programs -- including the Native Hawaiians set-aside -- into two, State and National programs, with the exception of the

Indian set-asides. American Indian reservations are under governance separate from States and could not be served through States. Native Hawaiians do not have a similar relationship with the Federal Government. Hawaii would continue to get a full State share under the Basic State Grant programs. (The FY 1995 share for Hawaii is \$4.8 million). The Hawaiian setaside represents a double payment. This is not the case with the Indian setaside.

We are within about a week of clearing the draft bill needed to implement budget policy for the vocational education programs. We can restore the setaside for Native Hawaiians. It would have no net budget impact, however it would mean that Native Hawaiians would continue to receive this double payment, and that some other potential grantees would not receive as much funding.

Decision:

_____ Maintain current policy.

_____ Restore the Native Hawaiian set-aside.

3. Education for Native Hawaiians: Current policy terminates small elementary and secondary education categorical programs for native Hawaiians.

The Education for Native Hawaiians program was first authorized in 1988 to help preserve the language and culture of Native Hawaiians and to meet the "unique" educational needs of Native Hawaiian students. Each of the elements of this \$12 million program substantially duplicates another, larger, education program under which the State of Hawaii receives or is eligible to receive funds.

Each of your budgets has requested no funds for the Education for Native Hawaiians program. The Bush Administration also requested no funds, for the same reasons.

Options for restoring funding for the program are more difficult than in the vocational education issue:

A. We could establish Native Hawaiian setasides in the current broader programs. For example, a Native Hawaiian setaside for Gifted and Talented students could be established under the Javits Gifted and Talented Program. Because the 1996 request for this program is \$9.6 million, carving out a \$1.5 million Native Hawaiian setaside (16 percent) would be perceived as inequitable to other applicants.

The set-aside approach would allow services to be targeted to Native Hawaiians without retaining a free-standing and duplicative authority and without increasing budget costs or reducing another program to pay for this. However, some other potential grantees under these broader authorities would not receive funding. This approach requires complex new

legislation.

B. We could amend the budget to restore funding to this program, and reduce funding for something else. Offsets could come from other Education programs. Such an effort would likely be viewed as "robbing Peter to pay Paul."

Decision:

- _____ Establish set-asides within broader identified programs.
- _____ Restore funding for the Education for Native Hawaiians Program. Find offsets from within the Education budget.
- _____ Do not restore funding for the Education for Native Hawaiians Program.

4. New census category for Native Hawaiians: For several years, Senator Akaka has urged that we revise our current statistical standards for the collection of data on the Native Hawaiian population. Under the standards that have been in effect since 1977, Native Hawaiians are included in the larger group that encompasses "Asian and Pacific Islanders." His proposal has been that we adopt one of two alternatives: a separate category for the Native Hawaiians, or an expansion of the American Indian/Alaska Native category to include Native Hawaiians.

Senator Akaka's proposal is now being considered in the context of a formal review of the standards being conducted by OMB, which is presently in the public record period. Revisions to the standard, if any, are scheduled to be put into effect no later than the spring of 1997 in concert with the schedule for completing the design of the 2000 census.

Last summer, at Senator Akaka's request, we extended a planned set of public hearings on the standards to hold a hearing in Honolulu. Over a two-day period, we heard many persuasive arguments supporting Senator Akaka's views. At this time, the public comment process as well as the other phases of our review are still in process. The only concerns with respect to Senator Akaka's proposal have been voiced by the American Indian community, whose members oppose adding the Native Hawaiians to an aggregate "American Indian/Alaska Native/Native Hawaiian" category.

With respect to the 2000 census, it seems likely that there will be, as there was in 1990, an explicit identification of Native Hawaiians. The question that remains as our public comment continues is where Native Hawaiians will be classified in data collections that employ more aggregate categories. We intend to keep Senator Akaka informed as this process continues, and while we will indicate great sympathy, there is no immediate action that can be taken while the formal review is underway.

THE WHITE HOUSE THE PRESIDENT HAS SEEN

WASHINGTON
April 5, 1995

41695

Chron

MR. PRESIDENT:

The attached memo concerns a draft HHS guidance implementing the Metzenbaum transracial adoption bill. That bill prohibits rejection of adoptive or foster parents solely on the basis of race. The guidance is due April 22.

Your go-ahead is sought on one key issue: the extent to which racial generalizations may be considered in adoption or foster placements. OLC's view, reflected in the guidance, is that any generalizations about race are unconstitutional; race-based considerations are permissible only if deemed to serve the best interests of a given child based on an individualized determination. Under this view, adoption agencies *may not* conclude as a general matter, that, other things being equal, same-race adoptions are preferable.

OLC's approach, which HHS now agrees to, will generate criticism from groups including the NAACP and Child Welfare League. As a matter of policy, some will find it objectionable that racial generalizations are barred even in tie-breaker situations. As a matter of federalism, the guidance will preempt the practices of many states. And OLC's approach barring racial considerations may have some spillover effect on the affirmative action debate.

On balance, OLC, Mikva and Galston all believe HHS should issue the guidance. Leon and George concur.

Approve___

Disapprove___

Discuss ☒

John Podesta
Todd Stern

Copies to

Mikva

Galston

Cerf

Leon

GS

Podestaw/ Puentener?

THE WHITE HOUSE

WASHINGTON
April 3, 1995

THE PRESIDENT HAS SEEN
4/6/95

95 APR 3 P7:24

MEMORANDUM FOR THE PRESIDENT

FROM: ABNER J. MIKVA *ajm*
BILL GALSTON *wag*
CHRISTOPHER D. CERF *cd*

SUBJECT: Implementation of The Multiethnic Placement Act

Background

The Multiethnic Placement Act of 1994 (MEPA) prohibits adoption agencies that receive federal assistance from "categorically" denying "any person the opportunity to become an adoptive or foster parent solely on the basis of . . . race, color or national origin." The Act further provides that race may be a "permissible consideration . . . as one of a number of factors used to determine the best interests of the child." Now the administration's challenge is to draft a "guidance" for the states implementing and interpreting the Act.

As you know, the Department of Justice's Office of Legal Counsel (OLC) has consistently argued that the permissible consideration of race in MEPA must be narrowly construed if it is to pass constitutional muster, and you have expressed your support for that position. Attached for your information and review is a proposed "guidance" for the states drafted to reflect OLC's constitutional analysis. During the process that produced this document, the Department of Health and Human Services has advocated an interpretation that would allow a somewhat broader consideration of race in adoption and foster care placements. Nonetheless, HHS is now willing to accept this more restrictive standard.

Core Approach of the Guidance

Compelled by constitutional considerations, the guidance makes clear that that race may only be considered in very narrow, child-specific circumstances: "An adoption agency may take race into account only if it has made an individualized determination that the facts and circumstances of the specific case require the consideration of race in order to advance the best interests of the specific child." For example, an agency could take into account a particularized race-based need in the case of a 12-year old African-American child who had previously been placed exclusively with African-American foster parents and had developed a strong sense of racial identity that would be compromised by a prospective placement. More generalized assumptions about transracial adoptions, however, would be impermissible. For example, agencies would not be allowed to

systematically prefer (as some now do) same-race adoptions into single-parent homes over transracial adoptions into two-parent homes. Under this proposed guidance, moreover, agencies would even be barred from using race as a "tie breaker" when all other factors relating to a prospective adoption are viewed as equal.

Discussion

As HHS and others have pointed out, this approach is not without its complications:

(1) As a matter of **expectations**, many ordinary Americans of all races would be surprised to learn that race-based generalizations are categorically barred, even as a tie-breaker. More particularly, while up to now the administration been criticized by those who wish to narrow the use of race in adoptions, the restrictive approach of the guidance would probably generate sharp criticism from groups such as the Child Welfare League and the NAACP.

(2) As a matter of **federalism**, the guidance will have the effect of limiting states' discretion in an area in which they historically have been predominant. Under any theory, MEPA would preempt existing statutes and practices in many states, including the Arkansas law enacted in 1987. An approach that explicitly prohibits any race-based generalizations would result in an even broader preemption: more states would be affected, and the range of positions to which they could fall back would be significantly narrowed.

(3) The constitutional arguments against the use of race in adoptions could spill over into a broader dispute about the role of race in our constitution and society. Specifically: although the issues are conceptually distinct and the lead court cases are different, the administration's position on transracial adoption could well become entangled in the broader debate over affirmative action.

Conclusion

These concerns notwithstanding, we believe the approach taken in the guidance is (1) consistent with your expressed desire to narrow the role of race in placement decisions and (2) compelled by constitutional considerations.

By statute, the guidance must be published by April 22. We are now prepared to proceed. If you want additional information concerning this matter, or if you want a further discussion to explore in greater detail the potential administrative and political consequences of this step, please so advise us.

Proceed ____

Let's discuss ____

HHS DRAFT WITH OLC COMMENTS

POLICY GUIDANCE**Race, Color, or National Origin As Considerations in
Adoption and Foster Care Placements****BACKGROUND**

On October 20, 1994 President Clinton signed the "Improving America's Schools Act of 1994," Public Law 103-382, which includes among other provisions, Section 551, titled "The Multiethnic Placement Act of 1994" (MEPA).

The purposes of that Act are: to decrease the length of time that children wait to be adopted; to prevent discrimination in the placement of children on the basis of race, color, or national origin; and to facilitate the identification and recruitment of foster and adoptive parents who can meet children's needs.

To accomplish these goals the Act identifies specific impermissible activities by an agency or entity (agency) which receives Federal assistance and is involved in adoption or foster care placements. The law prohibits such agencies from "categorically denying to any person the opportunity to become an adoptive or foster parent solely on the basis of the race, color, or national origin of the adoptive or foster parent or the child" and "from delaying or denying the placement of a child solely on the basis of race, color, or national origin of the adoptive or foster parent or parents involved." Under the Act, these prohibitions also apply to the failure to seek termination of parental rights or otherwise make a child legally available for adoption.

The law does permit an agency to consider, in determining whether a placement is in a child's best interests, "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background." If an agency chooses to include this factor among those to be considered in making placement decisions, it must be considered in conjunction with other factors relevant to the child's best interests and must not be used in a manner that delays the placement decision.

The Act also seeks to ensure that agencies engage in active recruitment of potential foster and adoptive parents who reflect the racial and ethnic diversity of the children needing placement. Section 554 of the Act amends Section 422(b) and Part A of Title XI of the Social Security Act. The amendment specifies the following requirements for child welfare services

programs: "[Each plan for child welfare services under this part shall . . .] (9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."

The Multiethnic Placement Act is to be viewed in conjunction with Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits recipients of Federal financial assistance from discriminating based on race, color, or national origin in their programs and activities and from operating their programs in ways that have the effect of discriminating on the basis of race, color, or national origin.

The Administration for Children and Families (ACF) and the Office for Civil Rights (OCR) in the Department of Health and Human Services (HHS) have the responsibility for implementing these laws. OCR has the responsibility to enforce compliance with Title VI and its implementing regulation (45 CFR Part 80), as well as other civil rights laws. ACF administers programs of Federal financial assistance to child welfare agencies and has responsibility to enforce compliance with the laws authorizing this assistance.

Private, as well as public, adoption and foster care agencies often receive Federal financial assistance, through State Block Grant programs, programs under Title IV-E of the Social Security Act, and discretionary grants. The assistance may reach an agency directly, or indirectly as a subrecipient of other agencies. Receipt of such assistance obligates recipients to comply with Title VI and other civil rights laws and regulations and with the requirements of the Social Security Act. Further, the Civil Rights Restoration Act of 1987 confers jurisdiction over entities any part of which receive any Federal funds.

This guidance is being issued jointly by ACF and OCR, pursuant to Section 553(a) of MEPA, to enable affected agencies to conform their laws, rules, and practices to the requirements of the Multiethnic Placement Act and Title VI.

DISCUSSION

A. Race, Culture, or Ethnicity As A Factor In Selecting Placements

1. Impermissible Activities

In enacting MEPA, Congress was concerned that many children, in particular those from minority groups, were spending lengthy periods of time in foster care awaiting placement in adoptive

homes.¹ At present, there are over twenty thousand children who are legally free for adoption but who are not in preadoptive homes. While there is no definitive study indicating how long children who are adoptable must wait until placement, the available data indicate the average wait may be as long as two years after the time that a child is legally free for adoption, and that minority children spend, on average, twice as long as non-minority children before they are placed. Both the number of children needing placements and the length of time they await placement increase substantially when those children awaiting termination of parental rights are taken into account.

MEPA reflects Congress' judgment that children are harmed when placements are delayed for a period longer than is necessary to find qualified families. The legislation seeks to eliminate barriers that delay or prevent the placement of children into qualified homes. In particular, it focuses on the possibility that policies with respect to matching children with families of the same race, culture, or ethnicity may result in delaying, or even preventing, the adoption of children by qualified families. It also is designed to ensure that every effort is made to develop a large and diverse pool of potential foster and adoptive families, so that all children can be quickly placed in homes that meets their needs.

In developing this guidance, the Department recognizes that states seek to achieve a variety of goals when making foster or adoptive placements. For example, in making a foster care placement, agencies generally are concerned with finding a home that the child can easily fit into, that minimizes the number of adjustments that the child, already facing a difficult situation, must face, and that is capable of meeting any special physical, psychological, or educational needs of the child. In making adoption placements, agencies seek to find homes that will maximize the current and future well-being of the child. They evaluate whether the particular prospective parents are equipped to raise the child, both in terms of their capacity and interests to meet the individual needs of the particular child, and the capacity of the child to benefit from membership in a particular family.

Among the factors that many state statutes, regulations, or policy manuals now specify as being relevant to placement decisions are the racial, ethnic, and cultural background of the child. Some states specify an order of preference for placements, which make placement in a family of the same race,

¹ MEPA applies to decisions regarding both foster care and adoption placements. In discussions regarding the bill, members of Congress focused primarily on problems related to adoption decisions.

culture, or ethnicity as the child a preferred category. Some states prescribe set periods of time in which agencies must try to place a child with a family of the same race, culture, or ethnicity before the child can be placed with a family of a different race, culture, or ethnicity. Some states have a general preference for same race or ethnicity placements, although they do not specify a placement order or a search period. And some states indicate that children should be placed with families of the same race or ethnicity provided that this is consistent with the best interests of the child.

Establishing standards for making foster care and adoption placement decisions, and determining the factors that are relevant in deciding whether a particular placement meets the standards, generally are matters of state law and policy. Agencies which receive Federal assistance, however, may use race, culture, or ethnicity as factors in making placement decisions only insofar as the Constitution, MEPA, and Title VI permit.

In the context of child placement decisions, the United States Constitution and Title VI forbid decision making on the basis of race or ethnicity unless the consideration advances a compelling governmental interest. The only compelling governmental interest, in this context, is protecting the "best interests" of the child who is to be placed. Moreover, the consideration must be narrowly tailored to advancing the child's interests and must be made as an individualized determination for each child. An adoption agency may take race into account only if it has made an individualized determination that the facts and circumstances of the specific case require the consideration of race in order to advance the best interests of the specific child. Any placement policy that takes race or ethnicity into account is subject to strict scrutiny by the courts to determine whether it satisfies these tests. Palmore v. Sidoti, 466 U.S. 429 (1984).

A number of practices currently followed by some agencies clearly violate MEPA or Title VI. These include statutes or policies that:

- establish time periods during which only a same race/ethnicity search will occur;

- establish orders of placement preferences based on race, culture, or ethnicity;

- require caseworkers to specially justify transracial placements; or

- that otherwise have the effect of delaying placements, either before or after termination of parental rights, in order to find a family of a particular race, culture, or ethnicity.

Other rules, policies, or practices that do not meet the constitutional strict scrutiny test would also be illegal.

2. Permissible Considerations

MEPA does specifically allow, but not require, agencies to consider "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background" as one of the factors in determining whether a particular placement is in a child's best interests.

When an agency chooses to use this factor, it must be on an individualized basis. Agencies that provide professional adoption services usually involve prospective parents in an educative family assessment process designed to increase the likelihood of successful placements. This process includes providing potential adoptive parents with an understanding of the special needs of adoptive children, such as how children react to separation and maltreatment and the significance of the biological family to a child. Adoption specialists also assess the strengths and weaknesses of prospective parents. They help them decide whether adoption is the right thing for them and identify the kind of child the family thinks it can parent. Approved families are profiled, as are the waiting children.

When a child becomes available for adoption, the pool of families is reviewed to see if there is an available family suitable for the specific child.² Where possible, a number of families are identified and the agency conducts a case conference to determine which family is most suitable. The goal is to find the family which has the greatest ability to meet the child's psychological needs.³ The child is discussed with the family, and decisions

² Among the child-related factors often considered are:

- the child's current functioning and behaviors;
- the medical, educational and developmental needs of the child;
- the child's history and past experience;
- the child's cultural and racial identity needs;
- the child's interests and talents;
- the child's attachments to current caretakers.

³ Among the factors that agencies consider in assessing a prospective parent's suitability to care for a particular child are:

- ability to form relationships and to bond with the specific child;
- the ability to help the child integrate into the family;

are made about the placement of the specific child with the family. This process helps prevent unsuccessful placements, and promotes the interest of children in finding permanent homes.

To the extent that an agency looks at a child's race, ethnicity, or cultural background in making placement decisions, it must do so in a manner consistent with the mode of individualized decision-making that characterizes the general placement process for all children. Specifically, in recruiting placements for each child, the agency must focus on that child's particular needs and the capacities of the particular prospective parent(s).

In making individualized decisions, agencies may examine the capacity of the prospective parent(s) to meet the child's psychological needs that are related to the child's racial, ethnic, or cultural background. This may include assessing the attitudes of prospective parents that relate to their capacity to nurture a child of a particular background. Agencies are not prohibited from discussing with prospective adoptive and foster parents their feelings, capacities and preferences regarding caring for a child of a particular race or ethnicity, just as they discuss issues related to other characteristics, such as sex, age, or disability; nor are they prohibited from considering the expressed preference of the prospective parents as one of several factors in making placement decisions.

Agencies may consider the ability of prospective parents to cope with the particular consequences of the child's developmental history and to promote the development of a positive sense of self, which often has been compromised by maltreatment and separations. An agency also may assess a family's ability to nurture, support, and reinforce the racial, ethnic, or cultural identity of the child and to help the child cope with any forms of discrimination the child may encounter. When an agency is making a choice among a pool of generally qualified families, it may consider whether a placement with one family is more likely to benefit a child, in the ways described above or in other ways that the agency considers relevant to the child's best interest.

Under the law, application of the "best interests" test would permit race or ethnicity to be taken into account in certain

-
- the ability to accept the child's background and help the child cope with her or his past;
 - the ability to accept the behavior and personality of the specific child;
 - the ability to validate the child's cultural, racial and ethnic background;
 - the ability to meet the child's particular educational, developmental or psychological needs.

narrow situations. For example, for children who have lived in one racial, ethnic, or cultural community, the agency may assess the child's ability to make the transition to another community. A child may have a strong sense of identity with a particular racial, ethnic, or cultural community that should not be disrupted. This is not a universally applicable consideration. For instance, it is doubtful that infants or young children will have developed such needs. Ultimately, however, the determination must be individualized. Another example would be when a prospective parent has demonstrated an inability to care for, or nurture self-esteem in, a child of a different race or ethnicity. In making such determinations, an adoption agency may not rely on generalization about the identity needs of children of a particular race or ethnicity or on generalizations about the abilities of prospective parents of one race or ethnicity to care for, or nurture the sense of identity of, a child of another race, culture, or ethnicity. Nor may an agency presume from the race or ethnicity of the prospective parents that those parents would be unable to maintain the child's ties to another racial, ethnic, or cultural community.

B. Recruitment Efforts

As recognized in the Multiethnic Placement Act, in order to achieve timely and appropriate placement of all children, placement agencies need an adequate pool of families capable of promoting each child's development and case goals. This requires that each agency's recruitment process focuses on developing a pool of potential foster and adoptive parents willing and able to foster or adopt the children needing placement. The failure to conduct recruitment in a manner that seeks to provide all children with the opportunity for placement, and all qualified members of the community an opportunity to adopt, is inconsistent with the goals of MEPA and could create circumstances which would constitute a violation of Title VI.

An adequate recruitment process has a number of features. Recruitment efforts should be designed to provide to potential foster and adoptive parents throughout the community information about the characteristics and needs of the available children, the nature of the foster care and adoption processes, and the supports available to foster and adoptive families.

Both general and targeted recruiting are important. Reaching all members of the community requires use of general media- radio, television, and print. In addition, information should be disseminated to targeted communities through community organizations, such as religious institutions and neighborhood centers. The dissemination of information is strengthened when agencies develop partnerships with groups from the communities from which children come, to help identify and support potential foster and

adoptive families and to conduct activities which make the waiting children more visible.

To meet MEPA's diligent efforts requirements, an agency should have a comprehensive recruitment plan that includes:

- * a description of the characteristics of waiting children;
- * specific strategies to reach all parts of the community;
- * diverse methods of disseminating both general and child specific information;
- * strategies for assuring that all prospective parents have access to the home study process, including location and hours of services that facilitate access by all members of the community;
- * strategies for training staff to work with diverse cultural, racial, and economic communities;
- * strategies for dealing with linguistic barriers;
- * non-discriminatory fee structures; and
- * procedures for a timely search for prospective parents for a waiting child, including the use of exchanges and

other interagency efforts, provided that such procedures must insure that placement of a child in an appropriate household is not delayed by the search for a same race or ethnic placement.

Agencies receiving Federal funds may not use standards related to income, age, education, family structure, and size or ownership of housing, which exclude groups of prospective parents on the basis of race, color, or national origin, where those standards are arbitrary or unnecessary or where less exclusionary standards are available.

ENFORCEMENT

As provided in Section 553(d)(1) of MEPA, covered agencies or entities are required to comply with the Act no later than six months after publication of this guidance, i.e., October __, 1995. Pursuant to Section 553(d)(2) of MEPA, if a state demonstrates to the satisfaction of the Secretary of HHS that it is necessary to amend state statutory law in order to change a particular practice that is inconsistent with MEPA, the Secretary may extend the compliance date for the state a reasonable number of days after the close of the first state legislative session

beginning after [insert date of publication of this guidance]. In determining whether to extend the compliance date, the Secretary will take into account the constitutional standards described in Part A of this guidance. Because states need not enforce unconstitutional provisions of their laws, statutory amendments are not an essential precondition to coming into compliance with respect to any such provisions.

HHS emphasizes voluntary compliance with the law and recognizes that covered agencies may want further guidance on their obligations under these laws. Accordingly, HHS is offering technical assistance to any covered agency seeking to better understand and more fully comply with the Multiethnic Placement Act. Organizations wishing to be provided with technical assistance on compliance with the nondiscrimination provisions of MEPA should contact [name of contact person] of OCR at [phone number]. Organizations wishing to be provided with technical assistance regarding required recruitment efforts should contact [name of contact person] of the Administration on Children and Families at [phone number].

The Multiethnic Placement Act provides two vehicles for enforcement of its prohibition against discrimination in adoption or foster care placement. First, pursuant to Section 553(b), any individual who is aggrieved by an action he or she believes constitutes discrimination in violation of the Act has the right to bring an action seeking equitable relief in a United States district court of appropriate jurisdiction. Second, the Act provides that noncompliance with the prohibition is deemed a violation of Title VI.

OCR has published regulations to effectuate the provisions of Title VI. 45 C.F.R. Part 80. Any individual may file a complaint with OCR alleging that an adoption or foster care organization funded by HHS makes placement decisions in violation of the Multiethnic Placement Act and Title VI. OCR may also initiate compliance reviews to determine whether violations have occurred. If OCR determines that an adoption or foster care organization makes discriminatory placement decisions, OCR will first seek voluntary compliance with the law. Should attempts at voluntary compliance prove unsuccessful, OCR will take further steps to enforce the law.

These steps may involve referring the matter to the Department of Justice with a recommendation that appropriate court proceedings be brought. HHS may also initiate administrative proceedings leading to the termination of the offending agency's Federal financial assistance. These proceedings include the opportunity for a covered agency or entity to have a hearing on any OCR findings made against it. 45 C.F.R. § 80.8.

At any point in the complaint investigation process or during the pendency of fund termination proceedings, organizations may agree to come into voluntary compliance with the law. OCR will work closely with organizations to develop necessary remedial actions, such as training of staff in the requirements of Title VI and MEPA, to ensure that their efforts at compliance are successful.

When a state fails to develop an adequate recruitment plan and expedite the placement of children consistent with MEPA, the Secretary through ACF and OCR will provide technical assistance to the state in the development of the plan and where necessary resolve through corrective action major compliance issues. When these efforts fail the Secretary will make a determination of appropriate proportional penalties.

4/6/95

Christopher said.

Similar statements were issued in London, Moscow, and Beijing. France is expected to follow suit this week.

While the treaty's goals are endorsed widely, the fate of the landmark accord hinges on getting the necessary majority votes from developing countries. They complain that the Big Five have not lived up to their treaty obligations to reduce their nuclear arsenals. In addition, some Arab nations, such as Egypt, insist that Israel should join the treaty and abandon its clandestine nuclear arsenal.

After talks Wednesday at the White House, Egyptian President Hosni Mubarak made clear that Clinton had not won a commitment from Egypt to back an indefinite extension of the treaty when diplomats take up the issue at the United Nations beginning April 17.

Mubarak said Egypt wants Israel, a nonsignatory, to join in the treaty and said that foreign ministers of the two nations will meet this week to discuss the issue.

(EDITORS: NEXT GRAF OPTIONAL)

"All states of the region should realize that it serves their own interests to accede to the treaty," Mubarak said. "... We propose, for our common good, to achieve that through serious but friendly negotiations between Egypt, and perhaps other Arab countries and Israel."

(END OPTIONAL TRIM)

Israel refuses to sign the treaty before there is a comprehensive Middle East peace, and the Clinton administration has not pressured Israel to sign the accord.

(EDITORS: NEXT GRAF OPTIONAL)

"My position is that all countries should join the NPT, that the Middle East should be free of all weapons of mass destruction nuclear, biological and chemical (and) that that objective will be more easily achieved, notwithstanding the differences between Israel and the other countries, if we have an indefinite extension," Clinton said.

(END OPTIONAL TRIM)

Administration officials increasingly are confident they will have at least a narrow majority supporting a permanent treaty. But arms control advocates worry that anything short of a lopsided vote may raise doubts about the treaty's ultimate credibility.

(EDITORS: STORY CAN END HERE)

The new security assurances are considered important by the nonnuclear nations despite their shortcomings.

"These assurances are not a legal obligation; they are a statement of policy which can change at any time," said George Bunn, one of the original U.S. treaty negotiators.

None of the assurances amounts to a security guarantee, nor do they affect existing commitments to alliances such as NATO or promise direct military assistance to countries.

In fact, the U.S. has declared since 1978 that it would not use nuclear weapons against a nonnuclear state that had signed the treaty unless that nation attacked the U.S. or allies as part of an alliance with a nuclear-weapons nation. The latter qualifier applied back then to the Soviet-led, now-defunct Warsaw Pact.

In the wake of the Persian Gulf war, administration officials say that all bets are off in the case of a country such as Iraq, which violates its NPT obligations by seeking to build nuclear weapons.

"The assurance doesn't specifically say that, but that is everyone's understanding," U.S. negotiator Thomas Graham said in an interview.

The other nuclear powers all have given various versions of such assurances, though China goes the farthest in promising "no first use" of nuclear weapons in any conflict. The U.S. long has rejected giving a

similar pledge, saying that would diminish the deterrent value of the nuclear arsenal.

The U.N. Security Council adopted a resolution in 1968 that declared the council and the nuclear weapons states would take unspecified action "under the U.N. charter" in response to a nuclear threat against a nonnuclear nation. But, at that time, Taiwan held the Chinese seat and France, not yet a treaty signatory, abstained on the measure.

The Security Council is expected to adopt a new resolution within a few days in which China and France join the other three nuclear states in pledging action in a similar situation.

The resolution indicates that the action would be diplomatic, economic, but not necessarily military.

THE UNFAIRNESS OF BEING 'FAIR'

By Clarence Page

When Chicago Mayor Richard M. Daley was told last summer that very few minorities scored well on the city's exam for promotions from police patrolman to sergeant, he did not sound very alarmed.

Instead, he cheerfully recalled how it had taken him three tries to pass the state bar exam. Those who did poorly should "try harder," he said.

Then, along came the lieutenants exam and even fewer minorities scored well enough to be promoted -- if the exam was to be the only criterion.

Mayor Daley had a change of heart. Now his administration is under fire in a battle that has opened up a new front in the national dispute over affirmative action.

Among the 67 promotions to lieutenant announced on St. Patrick's Day, the mayor and Chicago Police Supt. Matt Rodriguez decided to promote 13 sergeants on the basis of previous job performance, which is called "merit," in addition to their high test scores.

Of the 13, five happen to be white, five happen to be black and three happen to be Hispanic.

James McArdle, a 45-year-old white sergeant who finished 56th out of 765 sergeants who took the exam, filed suit with the backing of the Police Sergeants Association and the Fraternal Order of Police, saying he was unfairly passed over for promotion because of the merit appointments.

Was it a political move by Daley just before the April 4 Chicago mayoral election?

I suspect Daley's motives had something to do with civil order, department morale and police-community relations, which go hand-in-hand. The police force is 66 percent white and 34 percent minority in a city whose population is 39 percent black, 38 percent white and 20 percent Hispanic.

The disgruntled white officers say affirmative action hurts morale, but, whether they realize it, so did earlier systems that discriminated against minorities. Black and Hispanic officers have feelings, too.

Trouble is, despite \$5 million spent by the city to develop police promotion tests that would be free of cultural and other biases, only five minorities ranked in the top 114 who took the exam for promotion from patrol officer to sergeant last year.

And of the top 54 sergeants who took the lieutenants exam, only three were black and none were Hispanic.

So Daley had to make a choice: Did he just want lieutenants who knew how to pass exams, or did he want a police hierarchy that looked more like the city it was protecting?

Ironically, it's almost enough to make a modern mayor

long for the days of patronage.

After all, despite more modern stereotypes of Irish cops, for example, there once was a time when it was the Irish who received the short end of the stick of prejudice in big cities like Boston, Chicago and New York City. "No Irish need apply," said signs and "help wanted" ads, especially at police departments.

Various Irish Americans turned things around in the fabled American way: They got into politics and worked their way up.

Then along came the age of civil service and other reforms. Personal, political picking and choosing is no longer legal. Instead, applicants take tests, a device conceived supposedly to level the playing field.

But then, since the '60s, along comes evidence that the so-called "fair" tests are culturally biased against blacks and Hispanics.

Quite frankly, as an African American who took quite a few of those tests in high school and college, I would agree that they most certainly are biased. I also know that biases can be overcome, if you are encouraged to work hard enough at it. Unfortunately, neither Daley nor the city can wait for the public schools to start turning out bumper crops of stellar black and Hispanic test takers.

So they do the next best thing: bold, blatant affirmative action.

That doesn't trouble me. Some qualities of a good lieutenant simply are not that easy to put into an objective written test and, even though the oral test was given "blind," with unseen candidates speaking into a microphone, the evaluators could still hear ethnic nuances in their voices, so charges of ethnic bias continue, the legacy of long-standing racial resentments that will not go away overnight.

Even so, it is important to note that none of the "merit" officers is unqualified to do the job. They simply did not score on the test as high as the top 54 officers did.

Now the lawsuit charges the city changed the rules during the game. Had the city not relied so heavily on the tests, the suing cops would have much less to stand on.

Ah, it's enough to make you miss the days of patronage. Favoritism was easy then. Except then it worked against minorities. Now we have to clean up the mess it left behind.

THE DEBATE OVER 'CLASS WARFARE'

By Jack W. Germond and Jules Witcover

WASHINGTON -- With the Clinton White House intensifying its attacks on the Republican "Contract with America," the country is being treated once again to competing accusations of waging "class warfare." The Republicans want to cut school lunches to give more tax cuts to the rich, the Democrats say; the Democrats want to soak the rich to pay for shiftless welfare recipients, say the Republicans.

It's a refrain heard in politics ever since the days of the robber barons of industry on one side and the New Deal of Franklin D. Roosevelt on the other. In simpler days, when there were fewer rich and more poor in the American economic mix, "class warfare" was easier to understand and recognize.

But to a considerable degree because of the success of the social programs of FDR and successor Democratic presidents as well as economic prosperity, class warfare became somewhat muddled with the growth of a broad middle class. Most Americans today consider themselves in the middle class and probably believe if there is any class warfare going on, it's against them. The complaint against welfare today is grounded in the belief that the poor get all the help from Washington

and the middle class gets zilch.

That notion, indeed, is at the core of President Clinton's self-identification as a New Democrat -- not a bleeding heart of the Hubert Humphrey stripe but a Democrat just as concerned about the middle class as he is about the poor. His "Middle Class Bill of Rights" reflects that view, as does the moderate tax cut he proposes as part of it.

But the Republicans, too, insist that they are concerned about the middle class, not just the wealthy who seem nevertheless always to come out as the chief beneficiaries of GOP economic proposals. They call their approach enlarging the pie so everybody can have a bigger slice; the Democrats deride it as the same old trickle-down economics in which the rich take such a large slice that there is little left to trickle down to the middle class and poor.

Just who is in the middle class seems to depend on whether you're in it or not. Americans living in poverty look upon middle-income Americans as well off. Those on the higher economic rungs have a distorted view of the same people.

Take, for example, the comment of freshman Republican Rep. Sonny Bono, the one-time California entertainer, in defending the "Contract with America" tax cut that would give a \$500 credit for each child of parents earning up to \$200,000 a year.

Quoth Bono on NBC News' "Meet the Press," speaking of those who squawked about that ceiling: "... The other side, I don't think they clearly understand the middle class; \$200,000 isn't really that much. If you make \$200,000, you probably get \$100,000. If you've got a few kids, those are not high dollars today. They used to be, but they're not today." Maybe they're not for Sonny, nor for Cher for that matter. But according to the U.S. Census Bureau, the median average income in the United States is \$39,900.

In any event, the simpler old equation of class warfare as the defenders of the rich against the defenders of the poor won't do any longer. During and right after the Great Depression, the have-nots were a substantial constituency that the Democrats tapped into with great political success. But today most voters are haves to one degree or another, with the poor notoriously absent at the polls on Election Day.

The real class warfare these days is the effort on the one hand by Democrats to garner support from the middle class by painting the Republicans as slavish servants of the rich, and on the other by Republicans to cozy up to the middle class by painting the Democrats as slavish servants of the minority poor.

As a result, you see President Clinton not simply criticizing Republican tax cuts as shameless kowtowing to the wealthy, but offering tax cuts of his own for the middle class, at a time in which the deficit is going through the roof and no tax cuts can really be defended.

Vice President Al Gore calls the Republican contract "Robin Hood in reverse. ... Take from hard-working middle-income American families and give it to the wealthiest." But Robin Hood, if we remember correctly, took from the rich and gave to the poor, not the middle class. Some class warfare.

4/6/95

Rony
remember
they called

THE NEW YORK TIMES, THURSDAY, APRIL 6, 1995

To Keep Russia From Arming Iran

The Clinton Administration is rightly alarmed that a Russian contract to build nuclear reactors for Iran might help Teheran make nuclear arms. There are two ways to reduce that risk. One is to get Moscow to cancel the contract. The other is to negotiate additional safeguards, like those with North Korea, to prevent Teheran from using the reactors for bomb-making.

Russia has so far rebuffed American requests to call off the deal. In retaliation, some in Congress are threatening to cut aid, including help for Russia to disarm. That is unlikely to have the desired result, and may end up damaging American interests. A better way is to offer inducements for Russia to find other, safer nuclear work.

Moscow, which has no interest in arming its unpredictable neighbor and has taken precautions in the past against any spread of nuclear arms, has pledged to seek further safeguards with Iran. Until they are in place, no nuclear components of the reactors should be supplied.

Russia says the reactor deal is justified under the Nuclear Nonproliferation Treaty. It is true that having signed the treaty and allowed international inspections, Iran has the right to acquire reactors — but only for peaceful purposes.

Iran, which is sitting on untapped oil reserves, does not need nuclear reactors to power its economy. Washington has now shared intelligence with Moscow showing how Iran is bent on building bombs, including importing chemicals needed to separate plutonium from spent reactor fuel and attempting to buy gas centrifuge equipment used to enrich uranium for arms.

Washington can try to find a better use for Russia's nuclear know-how. It could allow a Russian role in the nuclear deal with North Korea, financed mostly by South Korea and Japan, to supply uranium fuel for a new reactor to be built in North Korea. Russia might also be eligible for private loans to meet its own nuclear energy needs.

If these sweeteners are not enough to induce Moscow to cancel the deal, Washington should insist that Russia seek better protection against potential Iranian misuse of its reactors. Iran needs to allow more intrusive inspections of all its nuclear sites and to agree not to build reprocessing plants that extract bomb-making plutonium from the reactors' spent fuel. Russia also needs to prevent recruitment of its technicians to help Iran make bombs.

Without plutonium and bomb-making experts, Iran will find it harder to develop nuclear arms.

Lost, and Found, New York

New York City, like all the world's great cities, is forever creating itself. But in the process it is forever at risk of destroying itself. If New York, which is terminally addicted to running ahead of the century, has not wholly succeeded in erasing its physical past it is mostly because of a law signed 30 years ago this month. The law established the Landmarks Preservation Commission, and to realize what New York lost before the commission came to be is to realize what it has gained since.

Take Penn Station. All that remains of the old Penn Station are the memories of those lucky enough to have known its steel-ribbed spaces. "Until the first blow fell," this newspaper wrote when the terminal was demolished in 1963, "no one was convinced that ... New York would permit this monumental act of vandalism."

Nine years earlier, the city had permitted the destruction of the Studio Building in Greenwich Village, which was designed by Richard Morris Hunt in 1857 to provide studios for artists. John LaFarge was housed there, and so were Frederick Church and Winslow Homer. A few years later nearby Rhinelander Gardens, an extraordinary row

of houses filigreed with wrought-iron balconies and designed by James Renwick, was smashed by the wrecking ball. Both, like Penn Station, were irreplaceable. The buildings that followed on their sites are not.

Many more glories have been lost as well, sometimes to fire and decay, but too often to greed. In three centuries of continual building and rebuilding, New York seems to have been blind to what it was discarding. Now, however, because of the Landmarks Law, it is not so fast — it cannot be — to throw buildings and entire districts on the refuse heap. Now New York is taking a good, hard look at itself — and finding wonders it did not even know it had.

Because of the law, New York City is far richer in monuments, grand and modest, to its colorful, convoluted history than it would otherwise be. New Yorkers are richer, too. We do not have to go to a movie to see where Edgar Allan Poe was treated for a minor medical problem, or how a 19th-century merchant lived, or the greatest collection of cast-iron buildings in the United States. All we have to do is walk the right streets.

Laura

There's
something
to this -

B.

4/6/95

Gone Berserk Over the Facts

When members of the education establishment encounter a curriculum that actually expects students to know a few names and dates and events and places, they slam the concept of "critical thinking" down on the table like a trump card. This is exactly what is happening in Virginia now. Gov. George Allen has proposed standards that would require students to master certain facts—such as the differences among the three branches of government and where the world's largest rivers are. Sure enough, various education interest groups are weighing in, charging, according to *The Post* [front page, March 29] that the standards "promote rote memorization over critical thinking in upper grades and would turn back the clock on 20 years of research about how students learn."

Well, pardon me for speaking frankly, but what research? There is no proof that student achievement is encouraged by downgrading factual knowledge. No other industrialized nation operates on this premise; and, as surveys large and small repeatedly show, our allegiance to it is producing historical and geographical ignoramuses—stunningly large numbers of students unable to say when the Civil War occurred or where Mexico is located.

It has become conventional wisdom among professional educators in the United States that students shouldn't be required to gain command of facts. A report in New York state a few years ago condemned the "information-dominant approach to the social studies curriculum." The project director of the controversial national history standards has declared it his mission to free students from "the prison of facts."

But common sense tells us that students benefit from having information at hand. Without it, they will not be able to gather more—as they must do if they are to learn to judge what others say and to argue properly themselves. Indeed, one worries that without having command of some facts, they will fall into the hyperbole and invective being so fulsomely illustrated by their elders in the dispute about the Virginia standards—charges made (as reported in *The Post*) that the standards are "repugnant" or "an unmitigated disaster." These are claims that the facts simply do not bear out.

Nor are the standards too tough, as a recent Washington Post editorial suggested. Kids can learn about important historical documents and events in grade school, not in the same way that they will learn about them later in life, but appropriately for their age. Anyone who doubts that there is a fitting way to teach grade-schoolers about the Magna Carta and the Glorious Revolution should check out Joy Hakim's new series, "A History of US" (Oxford University Press, 1993). These wonderfully accessible textbooks, intended for third- to eighth-graders, take up all manner of topics, not only the Federalist Papers but the Federalist Party—and the War of Jenkins' Ear.

The Virginia proposals, in contrast to national efforts to develop standards, are strong on skills as well as knowledge. While the national standards developed by the National Council of Teachers of Mathematics suggest playing down fraction computation in grades K-4, the Virginia standards require it of fourth-graders. While a draft version of the national standards being developed for English/language arts suggests that teachers shouldn't worry too much about spelling errors, the Virginia standards expect

The proposed Virginia standards are not perfect. The fourth-grade standards ask students to compare the groups that contributed to the settlement of Virginia this way: "Describe the characteristics or lifestyles and religious beliefs of the different groups who settled in each of the three regions, such as Scotch-Irish, German, English, and African." The problem here is that the word "settled" indicates a voluntary action, and most Africans came to early Virginia involuntarily, as slaves. This point should be made clear.

But those who are waxing indignant about the failure of the Allen standards to make this distinction are ignoring the fact that the standards currently in place do exactly the same thing. The fourth-grade social studies standards adopted during Gerald Baliles's term and kept throughout Douglas Wilder's also speak of where Africans "settled." This is a sloppy use of language that needs fixing, not, as some would have it, an example of conservative perfidy.

It would also be fair-minded of critics to point out how much more attention the Allen standards give to African history than do the ones now in place. If the proposed standards are adopted, students will learn about Mali and Kush and "the contributions of early sub-Saharan cultures to later African civilizations," all subjects notably absent from current standards.

There have been complaints that Bible stories were included on a sample elementary reading list. But there is nothing wrong with having students read stories adapted from the Bible or even the Bible itself so long as the emphasis is on literary and historical understanding. If they do not learn about David and Goliath, they will not be culturally literate. If they do not know the story of the Good Samaritan, they will have missed an important source of moral instruction (which is not the same thing as religious instruction). The Allen people seem to be backing off the idea of recommending Bible stories, but the children of Virginia would be better served by their standing firm and adding stories from religions besides Judaism and Christianity—Native American creation stories, for example.

Irving Kristol, a scholar of considerable insight, has elucidated the iron law of education reform. Any change acceptable to the education establishment, he says, is worse than doing nothing. The Virginia situation suggests a corollary: Propose something that is sensible, and the education interest groups will go berserk.

The hope is that the good citizens of Virginia will neither be intimidated by the vituperation being slung about nor hornsogged by talk about how damaging it is actually to expect students to command facts and master skills. Other industrialized nations have no doubt that this is the right course to follow—and neither should we.

The writer, former chairman of the National Endowment for the Humanities, is chairman of the Committee to Review National Standards at the American Enterprise Institute.

Jim Hoagland

Selling Out The Treasury

The twin shocks of Mexico's financial debacle and the dollar's seemingly endless slide toward a black hole when measured against the Japanese yen and German mark should shake the Clinton administration out of its one-dimensional, laissez-faire international economic policy.

That policy has been shaped more by the president's salesmen than by his savants. Neo-Wilsonian in foreign policy, the Clinton team has been neo-Coolidge on economic action abroad: The markets know best, the dollar will take care of itself, developing nations should borrow as much as they need to buy American goods. Sales count above all.

Treasury Secretary Robert Rubin and his predecessor Lloyd Bentsen either encouraged or quietly went along with a policy that has now put the Treasury unexpectedly in a harsh spot-

light as its role in the Mexican peso's collapse and its inability to affect significantly the value of the American currency abroad have become controversial.

The spotlight gives Rubin a chance to take charge of a set of related policies that until now have been dominated by Ron Brown's activist Commerce Department. If Rubin can turn potential disasters into manageable problems or better, the balance of power within the administration on international economic affairs should shift back to Treasury, where it resided in previous administrations.

I overstate the case to some extent. Friction among Clinton's top advisers is at a surprisingly low level by the standards of any recent administration. And the pre-Mexican crisis Treasury Department did show leadership in budget battles and on some crucial issues, such as NAFTA.

But Bentsen's focus on Congress and key domestic matters left a void in international policy that the Commerce Department's rhetoric and activism in getting American investors and goods into emerging markets quickly filled.

The president was pulled into trade summit after trade summit. Secretary of State Warren Christopher took on export promotion as one of his top jobs. The traditional lines of authority blurred as investors took Brown's unbridled enthusiasm for developing markets as an endorsement from Treasury as well as Commerce.

When Rubin took over from Bentsen on Jan. 10, it was far from clear that he either desired or would have a chance to be an influential Treasury secretary. Republican victories in November had spooked the president into retreating on deficit reduction and emphasizing tax cuts instead. That seemed to take fiscal policy out of Rubin's hands.

On international affairs, Rubin came to his new job with a skepticism—shaped by his own experience in currency trading and bond markets on Wall Street—about the ability of government to control or even channel the huge capital flows and other features of the global economy that has developed over the past decade.

But the bankruptcy of Orange County, the failure of Britain's Barings bank and Mexico's near-death brush with default have combined suddenly to dramatize the larger-than-life dangers that today's global markets pose for individuals and for nations—and to suggest a need for more, not less, government activism in this area.

The administration takes the view that there is no connection in these three cases. What ties them together is the fact that the investors were taking risks they could not afford—and then turned to national treasuries for help when disaster struck. In Mexico, the hyperbole the administration employed to sell the North American Free Trade Agreement undoubtedly encouraged U.S. investors to increase Mexican holdings, a result one administration insider now calls "a mistake made in a good cause."

But Mexico seems to have brought a rethinking at Treasury on previously neglected subjects. There is now a perceived need for international rules for "transparency" (jargon to describe countries being open and truthful about their economic conditions) and in some cases for "speed bumps" to slow capital flows in and out of emerging markets. There is also new thought being given to enlarging the capacity of international institutions to deal with future Mexicos.

Discussion of these ideas is likely to begin at this summer's summit of the Group of Seven affluent industrial democracies in Halifax, Canada. But they will not make much progress unless an engaged, forceful Treasury secretary and a president intent on putting new balance into his international economic policy champion well-conceived new initiatives there.

A dollar is a share in America Inc. held by both U.S. citizens and foreigners. The greenback's current fire-sale value reflects to some extent serious questions abroad about American leadership on economic affairs at home and abroad. It is time for Clinton, Rubin and Congress to work together to dispel those doubts.

4/6
THE PRESIDENT HAS SEEN



OFFICE OF THE VICE PRESIDENT

WASHINGTON

March 31, 1995

MEMORANDUM FOR THE PRESIDENT AND THE VICE PRESIDENT

FROM: ELAINE KAMARCK AND LARRY VICK (NPR STAFF)

SUBJECT: PRESIDENT CLINTON'S QUESTION ON THE MARCH 18, 1995
L.A. TIMES ARTICLE ON MARTIN MARIETTA
ENTERTAINMENT CHARGES

Yesterday's government allowed contractors to bill for "reasonable" employee morale costs. On October 13, 1994, President Clinton signed into law the Federal Acquisition Streamlining Act of 1994 (PL 103-355) which disallows such costs. The Federal Acquisition Regulation was revised with an interim rule published on January 13, 1995, implementing the provisions of the new law.

Rep. John Dingell's (D-MI) staff investigated the charges mentioned in the newspaper article, and he wrote to Director Rivlin about this matter on October 14, 1994.

In November 1994, Martin Marietta agreed to "concede" its claim for "\$263,000 worth of tickets to a Smokey Robinson Concert." Standard practice is for DOD to pay a portion of a contractor's bill when it is submitted and certified based upon the contractor's track record for allowable expenses. Final payment is made after expenses are audited. For example, in 1989, the year of the concert, Martin Astronautics was paid \$4 million less than it ultimately claimed in costs. That \$4 million provided the government with a safe margin for recovering disallowed expenses. The Defense Contract Audit Agency (DCAA) had recommended the contracting officer disallow the concert expenses. The Defense Criminal Investigative Service, the Assistant U.S. Attorney (Civil) in Denver, and the Air Force Office of Special Investigations are investigating Martin Marietta's billing in this matter.

DCAA reviewed Martin Astronautics Division's \$14.36 million in employee morale bills from 1987 through 1991. DCAA has questioned \$4.36 million, including \$1.33 million for concerts, sporting events and other employee activities. Martin Marietta has subsequently adopted a stricter policy for including these types of activities in overhead claims. A review of 1992 overhead claims for the Astronautics Division verified that such costs were being excluded.

The \$20,000 for golf balls and the \$7,000 for an office Christmas party" were billed to the Department of Energy (DOE). We are awaiting a DOE response on the action they took.

The bottom line is that our government found the abuse, fixed it, and tightened the loophole in our procurement reform bill.

Then Lt. Thier
should know then
to credit us for it—

95 MAR 20 P 4: 58

March 28, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: CAROL RASCO *CR*

SUBJECT: Families USA Prescription Drug Price Increase Report Analysis and Update

CC: Laura Tyson

You asked for an analysis of the recently released Families USA report on manufacturers' prescription drug price inflation and a more general update on this issue. The following attempts to be responsive to your request and concludes with a brief summary of potential policy options.

Background

As you know, inadequate prescription drug coverage represents one of our most difficult, expensive, and unsolved health policy challenges, particularly as it relates to older Americans. Facts that illustrate this point include:

Prescription drug costs remain the highest out-of-pocket health expenditure for three out of four seniors.

Although they represent only 12 percent of the population, older Americans consume 34 percent of all retail prescriptions.

A 1993 Urban Institute study found that 13 percent of seniors are forced to choose between purchasing food or needed medications.

An AARP 1994 study found that fully 46 percent of older Americans (13.8 million) had no prescription drug coverage whatsoever (no Medicaid, no Medigap, or no private retiree health coverage that covered medications.) Having said this, most of the "influential" elderly, i.e., those that contributed to the repeal of the Medicare Catastrophic Coverage Act, have some type of drug coverage and may not be interested in helping pay for something they already have.

Although not a required benefit, every state covers prescription drugs in their Medicaid programs. It is an expensive benefit, however, and there is little doubt that these drug coverage programs will be vulnerable to major cuts or total elimination if Medicaid cuts of the magnitude that some Republicans in the Congress are now considering are enacted. (The problem with this budget-driven strategy is that the short-term savings would be much more than offset by subsequent cost increases in hospitalization and mental health care.)

Families USA Report

The Families USA report, "Worthless Promises: Drug Companies Keep Boosting Prices," alleges that drug manufacturers have not been living up to their "voluntary" price constraint pledges. It accurately charges that the manufacturers continue to increase prices faster than the rate of general inflation for drugs that are sold to retail community pharmacies; as a result, out-of-pocket drug costs continue to grow even more burdensome, particularly for low income seniors.

The study reports that prices of the top 20 drugs used by all Americans increased in price 4.3 percent in 1993, or 1.6 times the 2.7 percent increase in general inflation (CPI). It also reports that the prices of the top 20 drugs used by older Americans increased by 4.0 percent in 1993, or 1.5 times the increase in general inflation.

The Families USA report also examines the profitability of the drug industry. It reports that from 1989 through 1993, the median profitability of all industries was 2.9 percent, while drug industry profitability was 15 percent -- 5 times higher.

Analysis of Families USA Report

1. Inflation

The Families USA report chose to focus on inflation increases solely to retail pharmacists because they fill about 85 percent of all out-patient prescriptions. **However, had the Families USA analysis surveyed all purchasers, including HMOs, hospitals, mail order pharmacy, as well as retail pharmacists, it would have reflected price increases roughly equal to that of the general inflation rate.** (In 1994, e.g., the drug manufacturer's inflation rate was 2.6 percent compared with the 2.7 percent general inflation rate.)

The manufacturer's inflation rate drops when one incorporates the non-retail purchasers because the industry gives these purchasers deep discounts and restrains price increases. The manufacturers say they give these deals because the non-retailer purchasers -- unlike the retailers -- move drug product market share, primarily through the use of formularies. The retailers strongly believe they are being victimized by class of trade discrimination and have filed a class action suit alleging Robinson-Patman Act anti-competitive violations.

Regardless of which analytical model is used, there is no question that drug price inflation has significantly moderated since the days in the late 1980s and early 1990s when it frequently tripled the general inflation rate. However, since the vast majority of Americans purchase their prescriptions at retail pharmacies, they rightly perceive that the prices of their medication purchases are continuing to rise above the inflation rate. (This may help explain why the Families USA report has received such a receptive response.)

2. Profitability

The report's findings on drug profitability appear to be generally accurate. As you know, the drug manufacturers have always claimed that their high profits are necessary to attract investment in risky and expensive research. In the face of market pressures (through managed care, which now represents about 35-40 percent of the total outpatient drug market) and political pressures (through the White House, David Pryor, Bill Cohen, the media, etc.) to constrain price increases, the industry has been able to maintain its high profitability for several reasons. They include:

- **Significant mergers**, which have increased efficiency and eliminated duplication;

- **The growth of managed care and the accompanying centralization of drug purchasing**, which has enabled drug manufacturers to reduce the numbers of personnel utilized to sell (or "detail") new drug products; and

- **Aggressive movement into the generic drug marketplace** by the name brand manufacturers, which has enabled them to benefit from recent generic drug sales growth and to compensate for fact that many drugs are coming off patent.

Outstanding Questions

1. Inflation Moderation: Short or Long-Term Trend?

The obvious outstanding question relating to drug inflation is whether the recent positive trends represent a short or long-term phenomenon. Largely because the managed care market is expanding at unprecedented levels, it seems reasonable to assume that a recurrence of the price escalation the nation experienced in the late 1980s and early 1990s is unlikely -- at least for the immediately foreseeable future.

One threat to an inflation moderated era might be an attempt by some in the drug industry to take uncompetitive actions to confront the current competitive pressures. Some allege that the seeds of this problem are already being laid with the recent purchases of Pharmacy Benefit Management (PBM) companies (drug cost/management firms under contract with insurers and HMOs) by drug manufacturers. The purchase of three of the largest of these PBMs by Merck, Eli Lilly and Smith Kline means that manufacturers control 63 percent of the PBM market. The FTC has indicated that it is monitoring this trend very closely.

2. Retail Pharmacy as a Purchaser: What is their Status and Administration Position?

In the last Congress, in response to concerns raised by the retail pharmacy community, we incorporated a provision into the Health Security Act that explicitly prohibited class of trade pricing distinctions. Under HSA, as long as the retailers could prove they were providing the same economic benefit to the manufacturers that other purchasers were, the manufacturers would have to provide equal access to discounts. The enforcement stick was that the industry could not participate in our proposed new Medicare program if a violation was found.

The retail pharmacists strongly supported HSA largely because of the "equal access" provision; to their credit, though, they stuck with us (and the employer mandate) even in the worst of times. Predictably, the manufacturers hated this provision and lobbied extremely hard against it. (As a result, even in the last Congress, there was not a great likelihood that the provision would have survived even had some version of health reform passed last year.)

In the environment of a more drug manufacturer-friendly Congress and in a session that is highly unlikely to produce a traditional Medicare prescription drug benefit, the potential for passing an enforceable "equal access" provision appears to be dubious at best. In fact, the retail pharmacists may well decide they prefer their fate to be decided at the State level, in the courts, and through the development of their own competitive alternatives. (They may prefer this track rather than risk a lopsided defeat in the Congress.) On the competitive front, the chain drug stores just recently established their own Pharmacy Benefit Management company. This week we will be meeting with the retail pharmacy representatives (including Charlie West of NARD) to get a sense of their current position on this issue.

3. Lack of Adequate Prescription Drug Coverage: What are the Options?

The problem that will not go away is that the millions of low to middle income class Americans who have little or no prescription drug insurance coverage simply cannot afford their medications. The HSA provided for a prescription drug benefit in its basic insurance benefit for all Americans. It also included a Medicare drug benefit for all the elderly and disabled. However, a required standard benefit package and a \$50-75 billion 5-year Medicare drug benefit is obviously not a politically or economically viable option at this time.

In response to your interest in this area, we have been working on three alternative drug coverage options. The first would require all Medicare managed care plans to offer a drug benefit. The second would create a Federally-funded drug benefit through the Medicaid program for those who are eligible for the Qualified Medicare Beneficiary (QMB) program. The third option would provide for a new Federal Matching grant program to encourage States to set up pharmaceutical assistance programs for low-income beneficiaries. Attached are some selected pros and cons of each. If you have any preferences, please let us know.

Option 1: Require Medicare Managed Care Plans to Offer Drug Benefit

Pros:

- No cost to Federal Government.
- Would increase from 35 percent to 100 percent the number of managed care plans that offer prescription drug benefits.
- Provides additional incentive for enrollment into managed care.

Cons:

- A required offering could be perceived as overly regulatory.
- Could lead to adverse selection of sick people into managed care plans and discourage managed care plans from entering market.
- Could be viewed by some advocates as presenting a Hobson's choice to the elderly: Choosing between keeping access to all doctors and need to have prescription drug coverage.

Option 2: Create a Federally Funded Prescription Drug Benefit through the Medicaid Program for Qualified Medicare Beneficiaries (QMBs).

Pros:

- Would cost substantially less than a full blown Medicare out-patient program (this option would cost about \$9 billion over 5 years) and would better target the benefit to those who are most in need.
- Would use the established Medicaid program to expand coverage rather than set up a new funding/administrative mechanism.

Cons:

- Although States would not pay for the new drug coverage, they would likely face increased costs associated with greater use of the rest of the QMB benefit (because the drug coverage would attract more people.)
- Frequent changes in the eligibility status will make it difficult to distinguish between those who get the drug benefit because of their dual eligibility status or their QMB status. (In other words, it could well create administrative hassles and financing disputes with States.)

Option 3: Develop a New Federal Matching Grant Program for State-Run Pharmaceutical Assistance Programs for the Low Income

Pros:

- States would have discretion to determine eligibility and coverage.

Cons:

- Questionable that many States would opt to participate in an optional and potentially expensive new health program.

THE WHITE HOUSE
WASHINGTON

4/4
THE PRESIDENT HAS SEEN

95 MAR 27 10:29

March 27, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL

SUBJECT: DRUG STRATEGY

Attached please find a proposal for raising the profile of this Administration's war on drugs. This memo addresses some of the missing elements in our present drug strategy.

THE WHITE HOUSE
WASHINGTON

95 MAR 27 A10:29

March 22, 1995

MEMORANDUM FOR LEON PANETTA AND ERSKINE BOWLES

FROM: RAHM EMANUEL

SUBJECT: DRUG STRATEGY

There are three issues relating to drugs that we need to focus on as we develop a strategy. Any comprehensive strategy on drugs must address these three questions.

- I. What is our message? (We have a policy without an accompanying message.) Use 'It's wrong'
- II. How do we respond to the expected increase in drug use by '96?
- III. How does Lee Brown become elevated into a credible surrogate on this issue?

- I. We have a good policy but no message on drugs -- past Republican Administrations had a message but no policy.

* Right now our best message is within the context of our Crime Bill. We are taking bold steps to prevent crimes in conjunction with strong punishment and enforcement, and the Republicans are trying to take us back. This can be contrasted with the GOP attempt to gut drug prevention. The public perceives drug prevention as a top priority. The Republican cuts in drug prevention programs provide us with the opportunity to make them appear weak on the war on drugs.

- II. Given that drug use will increase by 1996 and that we do not have a Director who can respond to Republican attacks, the President must begin to take a larger role on this issue.

Below is a list of Presidential events that will raise the President's profile and involvement in this issue.

- **DRUG FREE SCHOOLS RECOGNITION PROGRAM** - Since the start of the original Drug-Free Schools program in 1988, the Department of Education has worked with outside groups (i.e., The PTA, the National Family

Partnership, state agencies, etc.) to recognize successful anti-drug efforts in schools. In fact, 467 schools have been honored to date; 107 of them last year. Generally, these awards are announced in presented in a White House ceremony, but no White House ceremony was held last year (June 2nd). The Department of Education is in the process of evaluating schools that have been nominated or recognition this year, and they anticipate a final announcement in late May or early June. I strongly suggest that a White House event be held this year to honor these schools.

4/5
agree

- **National Family Partnership** - The President is the Honorary National Chairman of the National Family Partnership, a parents group which fights drug use. The National Family Partnership has a "Red Ribbon Campaign" where students sign red ribbons pledging not to use drugs. The President could invite this group to Washington and give a major address on drug use. At this event, the students present could sign red ribbons.

Yes - let's do it with in April -

- **Atlanta Resolution** - Mayor Campbell of Atlanta and National Families in Action (a national drug prevention group) are organizing a major national conference on drugs to be held on May 14 - May 16. The conference is entitled, "American Cities Against Drugs," and it is intended to provide prominent mayors the opportunity to denounce drug legalization and commit to a balanced, mainstream drug policy for the nation. The Mayors will sign the "Atlanta Resolution," a statement of policy consistent with our own Drug Strategy. (A copy of the resolution is attached). The President has been invited to speak at this meeting and he could also sign the Resolution. This would be an excellent opportunity for the President to address the issues that face cities when dealing with drugs and stress both the "police" and "prevention" sides of our crime and drug policy.

Yes -

- **Domestic Drug Enforcement Strategy** - We need to decide on a date where ~~the President could announce a Domestic Drug Enforcement Strategy~~. The ONDCP, with the help of Treasury, the Office of Drug Policy, and the Justice Department, has been working on a comprehensive document outlining our strategy to rebut the criticisms that have prevailed that the Administration is not tough enough on drug offenders. Scheduling a Presidential announcement would help bring this report to completion and the event would elevate the President's profile on this issue. Heads of various federal law enforcement bureaus and representatives from state and local law enforcement could participate.

Positive agenda on drugs

- **National DARE Day** - Drug Abuse Resistance Education (DARE) has requested that the White House designate April 20, 1995 DARE Day. A White House event on April 20th would highlight the Administration's accomplishments on community based policing and on fighting drugs.

A J

- **Congressional Meeting** - The President could have a meeting with Lee Brown and Senator Joe Biden and Senator Charles Rangel. The purpose of the meeting would be to confirm their support of the President's drug strategy. We need to have them defending us and not have them lend any credibility to the Republican attacks on our drug strategy. Another goal of that meeting would be to have them write an op-ed praising our work on drugs. *Agree*
- **Meeting with Jim Burke** - The President should meet with Jim Burke from Drug Free America to encourage Jim to write a favorable op-ed on our drug strategy. *See Burke's strategy - Lee*

III. Profile of Lee Brown

To date, Lee Brown has yet to be seen as a credible alternative voice to the President in the way that Bennett was. Lee Brown has lost his voice as a former New York Police Chief and is perceived to be more of a bureaucrat.

There are two areas that could improve Lee Brown's stature: first, an aggressive communications operation, and second, a new initiative to promote.

There needs to be a press secretary for the Drug Office who is proficient on the politics of drug issues and aggressive with the press. Right now, Lee Brown is not making news and therefore every attack on our strategy comes directly to the President. With a new Press Secretary, Lee Brown could take on the same role that the Attorney General has for crime. As you know, I have recommended Jonathan Prince for this position and the sooner he is appointed to this position, the sooner we can begin to implement an aggressive communications strategy on drugs. *fully agree*

A new initiative for Lee Brown could be that he designates three cities where there are mini High Intensity Drug Trafficking Area (HIDTA) programs that can be easily evaluated to show our progress on combatting drugs. I am attaching a memo from Lee Brown describing the seven High Intensity Drug Trafficking Area (HIDTA) programs that are already in place. The mini HIDTAs would be smaller and targeted so that we could promote them with the press over the course of the next two years. The Drug Office will micro-manage these three cities to show the success of our policies against drug use, street drug sales, etc.

Photo taken
before mailing

LEON

Don't say
B. Moore letter
(B. Galston - edited +
Cleveland P. Ed.
draft)

THE WHITE HOUSE

WASHINGTON

March 27, 1995

Mr. James E. Moore
784 Norman Place
Westfield, New Jersey 07090

Dear Jim:

It was great to see you at the basketball game and to have a chance to talk afterwards. Thank you for following up on our conversation about direct lending.

Your letter raises some important questions concerning the offset fee that Sallie Mae is required to pay the Department of Education on its holdings of federally guaranteed student loans. I asked the Department to look into this matter, and I'm pleased to share a summary of my findings.

The issue regarding the offset fee was raised not by the Department of Education, but by Sallie Mae itself. When Sallie Mae submitted financial projections to the Office of Management and Budget as part of the annual federal budget process, the projections reflected a substantial volume of securitization, but no offset fees for the student loans that were securitized. OMB asked the Department of Education for a legal opinion on whether the offset fees were owed, and the Acting General Counsel of the Department sent a preliminary legal opinion to OMB and to Sallie Mae. Sallie Mae then requested an opportunity to discuss the matter directly with the Department's legal staff. They then met, and the Counsel's office promised to review the matter further on the basis of information presented by Sallie Mae. The Counsel's office issued its final opinion on the matter on March 16, and I've enclosed a copy for your information.

I appreciate the importance of securitization to Sallie Mae, particularly if it is allowed to privatize. I also understand that Sallie Mae may have to pay a premium to investors to develop a market for asset-backed securities that better suits its business. As you may know, Sallie Mae has the option of

appealing the Department Counsel's opinion directly to the Secretary of Education. As Sallie Mae's general counsel acknowledged in the meeting with the Department, however, this is a matter within the Secretary's discretion, and we should abide by his ultimate determination.

I'm glad you took the time to let me know your thoughts on this important issue. I hope to see you again soon.

Sincerely,

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

James Moore
784 Norman Place
Westfield, New Jersey 07090
March 1, 1995

Mr. William J. Clinton
President of the United States
The White House
Washington, D.C. 20500-2000

Dear Bill:

It was great fun to join you at the Georgetown game the other evening. Your presence certainly seems to have inspired the team to the performance of the year. The discussion later was most interesting and, as usual, refreshingly frank. I have always thought that a primary role of old friends was to tell it like they see it. In that vein, I would like to follow up on a comment you made about the direct lending program to post high school students.

My nine months on Sallie Mae's Board have given me a perspective of both sides of this complex subject. It is increasingly clear that direct lending, while reasonably successful in its own right, has also caused the student loan industry to react in positive ways. The guarantors and secondary markets are working feverishly to reduce paperwork, create a fully compatible software interface between servicer systems, come up with competitive deferred payment terms and achieve the "excellent servicer" designation as defined under the legislation. All of the above demonstrates dramatically the positive effects of competition.

However, recently a number of actions have been taken by the Department of Education have alarmed me greatly and could rebound to the significant detriment of the Administration. In their zeal to successfully fulfill your mandate it appears that the Department is using its regulatory powers to directly hinder its competition, i.e., the established secondary market and Sallie Mae. If these actions become widely known, the Wall Street Journal and Republican congressional members would have a field day. In particular at least one of Education's recent actions (outlined below) is also in direct opposition to long standing SEC, Federal Reserve and Treasury policy.

Securitization is key to Sallie Mae's privatization plans. In January, Education unilaterally informed Sallie Mae that the sale of student loans to a trust for the purposes of securitization would in no way relieve Sallie Mae of its obligation to pay the 30 basis points per annum fee imposed as part of the 1993 budget. This position directly conflicts with established practice of the \$85 billion per annum asset backed market. Its assertion puts Education into the middle of a potential legal and accounting firestorm the scope of which I am sure they don't understand. It is symbolic, however, of their change of stance from regulator/facilitator to competitor. This subject, asset backed securitization, does happen to be my particular area of arcane expertise. My firm manages the placement of about \$2.5 billion of these securities each year. While we do not handle student loans as such, the objection raised here by the Department is completely wrong headed from both a legally and accounting point of view. I do believe your strong support for higher education is one of the Administration's great strengths. It would be an enormous shame if these efforts were obscured by Education's recent ill conceived actions.

Sincerely,

Best Wishes
Jim



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

March 16, 1995

Timothy Greene, Esq.
General Counsel
Student Loan Marketing Association
1050 Thomas Jefferson Street, N.W.
Washington, D.C. 20007-3871

Dear Mr. Greene:

I am writing in response to your letter of February 3, 1995, and our meeting of March 2, 1995, regarding the offset fee owed by the Student Loan Marketing Association (Sallie Mae) to the Department of Education (Department) under §439(h)(7) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1087-2(h)(7). In these communications, you have questioned the initial opinion we sent to you regarding the application of the offset fee to loans transferred by Sallie Mae to a business trust.

We appreciate all of the information you have provided and have carefully considered your arguments and views. However, as explained below, we have concluded that our initial view was correct and that the offset fee would be owed on loans transferred to a business trust.

We understand that, under current plans, Sallie Mae intends to transfer some of the loans it holds under the Federal Family Education Loan (FFEL) Program to a wholly owned subsidiary that will further sell the loans to a business trust for purposes of securitization. The subsidiary will be a passive shell that is being created only for tax and bankruptcy law purposes. An eligible lender under the HEA will act as trustee for the trust. The trust will be capitalized with debt sold to institutional investors as senior note holders and "equity" certificate holders. An indenture trustee will protect the senior note holders. The "equity" certificate holders are limited partners in the trust and have certain voting rights, but their return is limited to principal and interest and they do not share in any final profits of the trust. Sallie Mae's subsidiary holds 1% of the "equity" certificates and is the general partner of the trust and Sallie Mae receives the profits upon termination of the trust.

The detailed description of the proposed securitization you provided makes it clear that Sallie Mae will maintain a substantial role in regard to the loans involved in the securitization transaction. Sallie Mae or one of its subsidiaries will contract with the trust to service the loans in exchange for a servicing fee. In addition, Sallie Mae's wholly owned subsidiary will own one percent of the "equity"

400 INDEPENDENCE AVE., S.W. WASHINGTON, D.C. 20202-2110

Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Timothy Greene, Esq./p. 2

certificates issued by the trust. Sallie Mae's payment for the loans will not only include the one percent "equity" certificate and a cash payment but will also include deferred purchase price payments equal to cash flows of the trust. Ultimately, Sallie Mae receives the final profits of the trust, which is a characteristic of an owner or holder of property.

As noted in our letter to you of January 13, 1995, the HEA uses the term "holder" in a number of different contexts. The implications of that term as well as the related term "holds" used in §439(h)(7) of the HEA depends to a significant extent on the context in which it is used. Moreover, as you acknowledged during our meeting, the meaning of the term "holds" in the context of §439(h)(7) of the HEA is clearly left to the Secretary's discretion in implementing the purposes of the statute. As we noted in our previous letter, the offset fee is clearly intended to raise money for the Federal government. It was enacted as part of the Omnibus Budget Reconciliation Act of 1993 and was specifically identified in the law as a cost saving provision that would reduce the budget deficit.^{1/} The Secretary has to keep this purpose utmost in mind in interpreting the statutory requirements.

The ultimate issue is whether the form of Sallie Mae's proposed transaction should exempt the affected loans from the intent of Congress in requiring the payment of the offset fee. As noted above, Sallie Mae retains a substantial interest in the activities and profits of the trust that is formally the new holder of the loans. The general rule is that "a corporate entity may be disregarded in the interests of convenience, fairness and equity." Capital Telephone Co. v. FCC, 498 F.2d 734, 738 (D.C. Cir. 1974); Town of Brookline v. Gorsuch, 667 F.2d 215, 221 (1st Cir. 1981). The corporate form may not defeat overriding federal legislative policies. Thomas v. Peacock, 39 F.3d 493, 503 (4th Cir. 1994). In applying these rules the federal courts have looked closely at the purpose of the federal statute to determine whether the statute places importance on the corporate form. Town of Brookline, 667 F.2d at 221; Thomas, 39 F.3d at 504. In fact, the courts have not allowed the invocation of the corporate shield to permit an evasion of legal obligations. Thomas, 39 F.3d at 504; Alman v. Danin, 801 F.2d 1, 3-4 (1st Cir. 1986); Lowen v. Tower Asset Mgmt., 653 F.Supp. 1542, 1551 (S.D.N.Y., 1987).

consistent with these judicial guidelines, we have determined that it is not appropriate to permit Sallie Mae to evade its legal responsibility to pay the offset fee on loans it

^{1/}See Pub.L. 103-66, Omnibus Budget Reconciliation Act of 1993, Title IV, Subtitle B; 139 Cong. Rec. H6135, H6157-H6158 (August 5, 1993) (Statement of Rep. Ford).

Timothy Greene, Esq./p. 3

transfers to a trust in which it has an interest. The intent of §439(h)(7) of the HEA is to require Sallie Mae to pay a fee to balance off the costs of the FFEL Program. That purpose would clearly be frustrated if Sallie Mae were permitted to avoid the fee simply by transferring loans to a trust while retaining an interest in the loans through the trust.^{2/} The statute requires that the fee is paid on any loan that Sallie Mae "holds" as of a certain date; it does not indicate that the fee would only apply to loans held by Sallie Mae in a certain corporate form. It is clearly inequitable to permit Sallie Mae to avoid its statutory responsibility merely by creating a business structure that only seems to remove Sallie Mae's direct contact with the loans.^{3/} In fact, it is inconsistent with the statutory scheme to allow Sallie Mae to use funds to which the Secretary is entitled to pay the costs associated with its privatization efforts.

Contrary to the legal opinion prepared by Skadden, Arps, Slate, Meagher & Flom on your behalf, our interpretation of §439(h)(7) of the HEA is not limited by the Department's traditional interpretation of the term "holder" in the FFEL Program. As an initial matter, we note that Congress used the term "holds" and not "holder" in §439(h)(7) and that the two terms are not necessarily synonymous. More importantly, however, the term "holds" has to be interpreted within the context of §439(h)(7) of the HEA and Congressional intent in enacting that provision.^{4/} That intent would not be served by an

^{2/}The securitization also would limit the Secretary's statutory authority to ensure that Sallie Mae fulfills its role as a lender-of-last-resort. Section 439(h)(7)(B) of the HEA permits the Secretary to increase the offset fee to 1.0 percent if Sallie Mae substantially fails to comply with its lender-of-last-resort obligations. We do not believe that Congress intended to permit Sallie Mae to escape its programmatic obligations merely by transferring its loan portfolio to a trust.

^{3/}It is also instructive that the proposal indicates that Sallie Mae expects the transaction to be invisible to the borrowers whose loans it sells to the trust. The plan clearly contemplates that Sallie Mae will continue to service the loans thus avoiding the requirement to notify the borrowers of the transactions under §428(b)(2)(F) of the HEA.

^{4/}As noted in our earlier letter, the Department's analysis is similar to that used by the Internal Revenue Service (IRS) in determining whether to tax income of a trust to a grantor or other person who retains certain powers over or interest in the trust or its assets. 26 C.F.R. 1.671-1. We did not intend to suggest, as Skadden, Arps claims, that the IRS would treat this

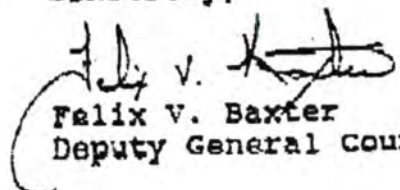
(continued...)

Timothy Greene, Esq./p. 4

unnecessarily narrow reading of the term "holds".5/

Finally, I want to assure you that our interpretation of §439(h)(7) is not designed to frustrate Sallie Mae's efforts to privatize. We recognize that this opinion may have financial implications for Sallie Mae's plans. However, we do not believe that the Secretary's prior expression of support for those efforts permit the Department to interpret the HEA contrary to the intent of Congress in enacting the statutory requirement for an offset fee.

Sincerely,


Felix V. Baxter
Deputy General Counsel

4/(...continued)
transaction as a grantor trust. That issue is clearly for the IRS to decide. However, as in the case of the IRS, it is certainly appropriate for the Department to disregard the form of a trust entity if the grantor retains certain powers. See Estate of O'Connor v. Commissioner, 69 T.C. 165 (1977). As the Supreme Court has said:

Technical considerations, niceties of the law of trusts or conveyances, or the legal paraphernalia which inventive genius may construct as a refuge from surtaxes should not obscure the basic issue. The issue is whether the grantor after the trust has been established may still be treated, under this statutory scheme as the owner of the corpus.

Helvering v. Clifford, 309 U.S. 331, 334 (1940). Under the statutory scheme of §439(h)(7), Sallie Mae clearly can and should be treated as holding the loans.

5/We also do not agree with your argument that our interpretation of §439(h)(7) would disrupt the existing market for publicly traded student loan securities. Our interpretation does not reflect a change in the Department's traditional broad interpretation of the term "holder" for other purposes in the FFEL Program. Instead, we are interpreting a statutory provision directed to and affecting only Sallie Mae. Our interpretation of that provision does not directly affect any other entity or party.

THE WHITE HOUSE THE PRESIDENT HAS SEEN
WASHINGTON 4/5/95

March 28, 1995

95 MAR 28 P5:47

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM:

ANTHONY LAKE
WILLIAM WEBSTER (RM)

SUBJECT:

Commemoration of the End of the War in the Pacific

Purpose

To obtain your approval regarding your participation in the ceremonies commemorating the end of World War II, September 1-3 in Honolulu.

Background

The Defense Department's World War II Commemoration Committee has proposed three days of events related to the following themes:

- Day 1: "Remembering the War" centered on a 25th Infantry Division pass-in-review and a parade of ships.
- Day 2: "Remembering the Sacrifices" with memorial services at the Punchbowl cemetery and on a docked aircraft carrier, with a visit to the Arizona Memorial. The evening events are dinner dances for the veterans.
- Day 3: "Look to the Future" with a communal service attended by Dr. Billy Graham, among others.

Heads of government are not being invited to allow your time to be focused on honoring the veterans at each day's major events. Secretary Perry will host the Ministers of Defense or representatives of those nations involved in the Pacific war.

Since the commemoration occurs over Labor Day weekend, you may want to combine the above schedule with a few family days in Hawaii, beforehand. We will also propose, at your direction, an appropriate Labor Day event in California on your return trip that Monday. Finally, at Tab A are the remaining WWII commemorative events on your schedule.

cc: Vice President
Chief of Staff

RECOMMENDATION

That you approve the proposed schedule regarding your participation in all three days of the VJ Day Commemoration as well as the plan for personal time in Hawaii before the Commemoration and the California Labor Day event.

Approve _____

Disapprove _____

Attachment

Tab A Schedule of remaining WWII events

* not for distribution

Remaining veterans and military events on POTUS schedule for 1995

DATE	LOCATION	EVENTS
May 8, 1995	Washington, DC	Private wreath laying at Arlington, event at Holocaust Museum, veterans event at Fort Myer (VE Day)
May 9, 1995	Moscow	TBA
May 29, 1995	Washington, DC	Arlington event (Memorial Day)
June 26, 1995	San Francisco, CA	50th Anniversary of the signing of the UN Charter
July 27, 1995	Washington, DC	Korean War Memorial Event
Sept. 1-3, 1995	Honolulu, Hawaii	End of war in Pacific Events
Oct. 24, 1995	New York	50th Anniversary of the UN
Nov. 11, 1995	Washington, DC	Veterans Day

Chron

THE WHITE HOUSE
WASHINGTON

April 4, 1995

Jon and Sheila Springs
1541 Beach Park Boulevard
Foster City, California 94404

Dear Jon and Sheila:

Thanks for your letter of March 28 and for letting me know that you'll be at the convention in California.

I hope I'll have a chance to see you while I'm out there, but, of course, never know what the schedule will hold.

I'll watch for your hat, Sheila!

Sincerely,

Tom

Lee Satterfield
cc ~~(X)~~ ?



*Jon and Sheila Springs
1541 Beach Park Boulevard
Foster City, CA 94404
(415) 572-0266*

March 28, 1995

*President Bill Clinton
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500-2000*

Dear Bill:

It's us again. Just a reminder that we will be attending the California Democratic Convention. We're hoping your schedule will allow you to meet with us and perhaps the other San Mateo County delegates. It would be great if you could squeeze out a little time for all of us. At least Jon and I would like to say hi or visit for as much as possible. What's a convention without a little red, white and blue--watch for mine--a sequined baseball cap resembling our flag!

Best regards,

Sheila & Jon

Am

WHITE HOUSE
WASHINGTON

*Heidi - how are you?
is this the manuscript?
Scott's so good
Am*

April 4, 1995

The Honorable Scott M. Matheson, Jr.
1846 East Michigan Avenue
Salt Lake City, Utah 84108

Dear Scott:

Thanks for your letter of March 30 and for sending your résumé. I appreciate your interest in being appointed to the United States Court of Appeals for the Tenth Circuit and have shared your letter and the biographical material with Abner Mikva, Counsel to the President, for his consideration.

I hope you are well, and I look forward to seeing you soon.

Sincerely,

Bar

cc V Radd

Scott M. Matheson, Jr.
1846 East Michigan Avenue
Salt Lake City, Utah 84108

March 30, 1995

Honorable Bill Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500-2000

Dear President Clinton:

I have decided to apply for a judicial appointment on the United States Court of Appeals for the Tenth Circuit. The position has been open for over a year since Chief Judge Monroe G. McKay took senior judge status.

As the enclosed biographical material indicates, I have been very fortunate for my diverse professional opportunities, which include litigation experience at a major Washington D.C. law firm, teaching at a leading state law school, service in local and federal prosecution offices, and a variety of activities in the legal community.

I also have been an active participant in Democratic politics, including service as state director of your campaign in Utah in 1992, co-chair of Karen Shepherd for Congress in 1992, and campaign manager for Matheson for Governor in 1976 and 1980.

You appointed me to be the United States Attorney for the District of Utah. I am grateful for your confidence and trust and to serve in that position.

One of your most important and enduring legacies will be your appointments to the federal bench. I would be very proud and honored to be part of that legacy.

Thank you for your consideration.

Sincerely,



Scott M. Matheson, Jr.

Enclosure
c: Abner J. Mikva
Victoria Radd

Scott M. Matheson, Jr.

1846 East Michigan Avenue
Salt Lake City, Utah 84108
801/583-1264 (h)
801/524-5682 (w)

EDUCATION

East High School	1968-71 (Salt Lake City)
Stanford University	1971-75, A.B. in Economics
Oxford University	1975-77, Honours School in Modern History, Rhodes Scholar, Magdalen College, M.A. (B.A. 1977, Oxford converted to M.A. in 1984)
Yale Law School	1977-80, J.D.

EMPLOYMENT

United States Attorney District of Utah

August 1993 to present
Attorney General's Advisory Committee Subcommittees on Native American Issues
and on Environmental Crimes

Law Professor College of Law, University of Utah

Professor of Law (July 1991 to present) (on leave)
Associate Dean for Academic Affairs (July 1990 to August 1993)
Associate Professor of Law (July 1985 to July 1991)
Subjects taught: Civil Procedure, Constitutional Law, Evidence, First Amendment and
the Press, Intellectual Property, The Making of the Constitution

Visiting Professor Harvard University, John F. Kennedy School of Government

July 1989 to June 1990 (on leave from University of Utah)
Visiting Associate Professor in the Frank Stanton Chair on the First Amendment, Joan
Shorenstein Barone Center on the Press, Politics and Public Policy

Scott M. Matheson, Jr.

Page 2

Deputy County Attorney Salt Lake County

July 1988 to July 1989 (on leave from University of Utah)
Felony prosecution practice, including jury trials

Attorney Williams & Connolly (Washington, D.C.)

March 1981 to July 1985

Associate in general litigation law firm; emphasis on First Amendment press and church-state litigation

Campaign Manager Matheson for Governor

1976 and 1980

Supervision of two successful Utah gubernatorial campaigns

Chief Legislative Assistant Congressman Wayne Owens (Washington D.C.)

January 1974 to September 1974

Responsible for legislative program, including House Interior and Judiciary Committee matters

Other Employment

Summer associate (law clerk), Williams & Connolly (1979), Van Cott, Bagley, Cornwall & McCarthy (Salt Lake City) (1978)

Economic researcher, Office of Aviation Economic Policy, U.S. Department of Transportation (Washington, D.C.) (summer 1975)

Congressional intern for Congressman Wayne Owens (Washington D.C.)(summer 1973)

Tennis instructor, Salt Lake County (summer 1972), Stanford Tennis Coach Dick Gould (academic years 1971-72, 1972-73)

Computer operator at LDS Hospital (employed by University of Utah/Dr. Homer Warner)(Nov. 1969 to Sept. 1971, summer 1972)

ACADEMIC AWARDS AND ACHIEVEMENTS

Rhodes Scholarship

Phi Beta Kappa (junior year at Stanford)

Note Editor, Yale Law Journal

Burlington Resources Foundation Faculty Achievement Award 1993 (University of Utah College of Law teaching award)

Selected Participant, National Endowment of the Humanities, Bicentennial Seminar for Law Professors, Political Experience and Thought in the Making of the Constitution, Stanford University, June 22-July 10, 1987

Anna Laura Myer's Prize: outstanding undergraduate economics honors thesis at Stanford University, Interfuel Competition and Energy Concentration

Graduated from Stanford University "With Distinction"

National Merit Scholar Finalist

Scott M. Matheson, Jr.

Page 4

PUBLICATIONS

Note, Indian Water Rights: The Winters of Our Discontent, 88 Yale L.J. 1689 (1979).

Legal/Constitutional Aspects of Changing Patterns of Access, in Proceedings of the Symposium on Public Access to Federal Government Information 55 (1986) (published by the Utah Library Association Government Documents Round Table).

Constitutional Snag Could Keep Hatch Off Supreme Court, The Salt Lake Tribune, June 14, 1987 at A19.

Hatch Downed, Nat'l L. J., July 13, 1987 at 13.

Procedure in Public Person Defamation Cases: The Impact of the First Amendment, 66 Tex. L. Rev. 215 (1987).

Letter of the Law? Let People Decide, The Salt Lake Tribune, Feb. 7, 1988, at 18A.

Eligibility of Public Officers and Employees to Serve in the State Legislature: An Essay on Separation of Powers, Politics, and Constitutional Policy, 1988 Utah L. Rev. 291.

The Working Relationship Between Judges and Journalists in Salt Lake County: An Attitudinal Study, 14 J. Contemp. L. 211 (1988).

Tax Initiative May Cloud Separatism, The Salt Lake Tribune, Sept. 18, 1988, at 10A.

The Prosecutor, the Press, and Free Speech, 58 Fordham L. Rev. 865 (1990).

Jury Surveys and Pretrial Publicity: Two Case Studies, 3 Utah Bar J. 8 (June/July 1990) (co-authored with Randy Dryer).

Media, Candidates Must Join to Improve Campaign Tactics, The Salt Lake Tribune, August 18, 1990, at 10A.

Federal Legislation to Elevate and Enlighten Political Debate: A Letter and Report to the 102d Congress about Constitutional Policy, 7 Journal of Law & Politics 73 (1990).

Americans Lacking Basics of Life Cannot Enjoy Benefits of Bill of Rights, The Salt Lake Tribune, December 15, 1991 at A27.

Constitutional Status and Role of the State Attorney General, 6 Fla. J. of L. & Public Policy 1 (1993).

MEMBERSHIPS AND COMMUNITY ACTIVITIES

District of Columbia Bar (1981) (inactive), Utah State Bar (1986), Salt Lake County Bar Association (1986), American Bar Association (1981)

Court admissions: United States Court of Appeals for the District of Columbia (1981), United States Court of Appeals for the Tenth Circuit (1993), United States District Court for the District of Columbia (1981), United States District Court for the District of Utah (1986), Court of Appeals for the District of Columbia (1981), Utah Supreme Court (1986)

University Committee on the Tanner Lectures on Human Values, Univ. of Utah (1993-)

Advisory Committee on the Local Rules of Practice, U.S. District Court (Utah) (1993-)

Strategic Planning Committee for Law Enforcement (1994-)

Criminal Justice Act Advisory Committee, U.S. District Court (Utah) (1994-)

Board of Trustees, Legal Aid Society of Salt Lake (1986-93,* President in 1987)**

Utah Constitutional Revision Commission (1987-93*)**

Utah Supreme Court Adv. Comm. on the Rules of Evid. (1987-93,* Chair, 1991-93)**

Executive Committee, Salt Lake County Bar Association (1986-92*)

Honors Program Advisory Committee, Univ. of Utah (academic years 1986-87, 1987-88)

Advisory Board, Hinckley Institute of Politics, University of Utah (1990-93)**

Board of Directors, Scott M. Matheson Leadership Forum (1990-93)**

Chair, United Nations Day for the State of Utah, 1991

Board of Trustees, TreeUtah (1992-93)**

State Director (volunteer), Clinton/Gore '92 in Utah

Co-Chair (volunteer), Karen Shepherd for Congress, 1992

Chair, Section on Mass Communication Law, Association of American Law Schools (1993)

*On leave academic year 1989-90 **Resigned upon nomination as U.S. Attorney

OTHER

Commencement Speaker, College of Eastern Utah, 1994

Zions Bank 1991 "Up'n Comers" Award (Education category)

Honorary Member, Golden Key National Honor Society, 1990

Outstanding Young Men of America Award, 1987 and 1988

Stanford Tennis Team, Oxford Tennis Team (Blues)

**McIntosh Award (1967, 1969, and 1971, for ability and sportsmanship in tennis,
Utah Tennis Association)**

March 1995

Chiron

THE WHITE HOUSE
WASHINGTON

April 4, 1995

William F. Podlich
Suite 360
840 Newport Center Drive
Newport Beach, California 92660

Dear Bill:

Thanks for your letter of March 24. Hillary and I were delighted you and Pat could join us for the recent dinner here. It was good to see you both and to have a chance to visit.

Thanks, too, for sending the article from the Wall Street Journal about the Nott Memorial at Union College. I appreciate your following up on the invitation from Union to speak at its graduation ceremonies. I've shared your letter with Billy Webster, my scheduler, for his consideration.

See you soon.

Sincerely,

Bill

Bill Webster
It's a big contribution.
+ prep
CC scheduling

WILLIAM F. PODLICH
840 NEWPORT CENTER DRIVE, SUITE 360
NEWPORT BEACH, CALIFORNIA 92660
(714) 640-3062

March 24, 1995

The Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500-2000

Dear Mr. President:

What a wonderful evening!

Pat and I want to thank you and the First Lady very much for inviting us to the dinner on the 20th. Not only was the food and drink outstanding but the music and the broad cross-section of guests made the evening that much more enjoyable. It was great fun talking to old (and new) friends from around the country.

It was also gratifying to see that you are feeling better about the task at hand. While progress won't be easy, I do think the country is not anxious to try everything Newt Gingrich and his House zealots dream up. The leadership you can exert to blunt the most extreme proposals will stand you in good stead with the voters.

As you may remember, I mentioned the Union College graduation ceremony in which our daughter, Heather, will (from all indications) participate. I thought you might find the enclosed article from Tuesday's Wall Street Journal interesting . . . it features one of the campus' landmarks which has just been restored and is truly a one-of-a-kind structure. I know the college graduation season is a tough one for scheduling - - but with the importance of New York and the true uniqueness of a 200th year college anniversary, it certainly merits a hard look.

In any event, let me close by again thanking you for your gracious hospitality and we will look forward to our next chance to visit, whether in Schenectady or elsewhere.

Best personal regards,



William F. Podlich

WFP:vlj
Enclosure

LEISURE & ARTS

Did Union College Scorn Monumental

By FRED R. BLEAKLEY

Schenectady, N.Y.

If there are ghosts, they would have been soaring with delight over the rededication recently of a High Victorian Gothic masterpiece here at Union College.

Saved from ruin by a \$9 million makeover, the Nott Memorial, a giant folly and a National Historic Landmark, captures the spirit of one remarkable educator, two renowned architects and the exuberance of a time when whimsy counted as much as practicality.

The 16-sided, 10-story salute to Eliphalet Nott (Union's president from 1804 to 1866) looms over America's first planned campus. "The Nott," as it is affectionately known, is a hotblooded wonder of colored stone, soaring arches and stained-glass windows sitting majestically apart from Union's neoclassical buildings of cool gray-and-white stucco. Somehow the disharmony is enchanting—all the way up to the giant slated dome encircled with Hebrew lettering that means: "The work is great, the day short and the master presses the workmen."

Much of what visitors marvel at has been impossible to see for almost a century. For the first time since 1903, the restoration allows a viewer on the encaustic tiled ground floor to look 106 feet up to the vaulted, cobalt-blue ceiling. The effect is like a planetarium, with literally celestial light filtering through 709 red, yellow, purple and green tiny glass "illuminators" that appear to flicker like stars as you tilt your gaze. Set in from the stone walls are 16 cast-iron columns—a crystal-palacelike skeleton—that support the dome and second- and third-floor balconies encircling the open center space.

Only hours after workmen had finished clearing construction debris on a recent weekend, historian David McCullough told Nott Memorial fans and alumni donors that "when every airport, every ketchup bottle, every sitcom and every magazine rack looks the same, how much more important

it is to come into a structure where the idea is not to look like anything else."

Mr. McCullough put the Nott in the same league as the Roeblings' Brooklyn Bridge and H.H. Richardson's City Hall in Albany, calling all three "distinctive and important examples of 19th-century American public architecture." It is also a relic of a time when Union was a leader in American education and intellectual life.

In Nott's time, Union, which celebrates its bicentennial this year, was the first non-denominational college (a union of all faiths) in the nation. First also to introduce modern languages, the sciences and engineering to the curriculum, it became an innovator in liberal arts education. Nott, it's said, was the equal of Jefferson in tearing down the walls of education that kept students from changes in society. Nott also pushed New York state to pay Union's tuition for indigent students so higher education was not just for the rich. And he usually accepted students expelled by other colleges.

A Presbyterian minister, he believed students would come to know God better by "embracing the world." Emphasizing practical education as much as classical studies, Union paved the way for careers in medicine, law, mining and other sciences. Dozens of Nott's students went on to head American colleges and universities. He also invented the Nott stove, which for several decades gave Americans a safe, efficient way to heat their homes.

He was just as innovative when he picked an architect to plan a college campus on a hill overlooking Schenectady, in the Hudson Valley some 170 miles north of New York City. Discarding the tight, medieval-cloister look of America's colleges, the French landscape architect Joseph Ramee envisaged a sloping plateau opening frontierlike to the West. He planned to have Union's buildings flank a Roman rotunda and a formal garden.

Construction of the North and South colleges (which remain today) began around 1812. That was several years before ground was broken for Thomas Jefferson's Univer-

sity of Virginia, even though his plans were already on the drawing board, but without the eventual domed centerpiece.

But: "Evidence shows that a large domed rotunda building being the central focus of a campus, as at the University of Virginia, came from Ramee's plan for Union College," says Stanford University



Nott Memorial

professor of architectural history Paul Turner. A Union graduate and U.S. campus expert, he is writing a book on Ramee.

Still, for nearly 50 years Ramee's domed building never got started. Financial stewardship was not Nott's strength and his autocratic style made matters worse as he entered his dotage. But when alumni pledged funds, Nott had the foresight to choose Edward Tuckerman Potter (his grandson) as architect. One of two brothers recognized as leading American architects in the Victorian Gothic style, he immediately discarded the Ramee rotunda as too squat and opted for a grander, more flamboyant look. It was completed in 1878.

Despite Nott's renown for practicality, no one ever quite knew what to do with

Michael Lets Michael Be Michael

half appearing in spring
suddenly. Word
Bulls,

third-quarter steal.

It was a pretty good game, with the Bulls making up a 16-point last-quarter deficit to force the stronger Pacers into overtime before White's 96-103. "I was pleased with how others seem liked and how long he lasted," said patriot. A Bulls' droll coach, said alists met with Press. "I told him that we week and pledged to subscribe. A lion bond issue that the government and, as is place to be on its budget. Added to ex-

Folly?: Nott

the 80-foot-round, 100-foot-high space. It failed as a chapel and was ill-suited as a library (though it was used as one for nearly 60 years). For a while, when the rotunda went out of fashion in this century and was considered "vulgar," there was talk of demolishing it or making it more Union-like.

When Roger Hull became Union's president in 1990, the Nott was a leaky, decrepit giant dropping slabs of granite and roof tiles and buttressed by railroad ties that kept its stony sides from bulging further. On the ground floor was a theater in the round. Upper stories housed an art studio, a dumping ground for old props "and more dead pigeons than I wanted to count," said Mr. Hull.

Still, it was the symbol and, some say, the soul of a school that has 18,000 graduates and 2000 current students. So Mr. Hull decided to preserve it for current and future Unionites. As part of an even more ambitious \$150 million fund-raising campaign, he set out to raise \$9 million to return the Nott to its splendor and \$2 million for maintenance. More than 1,700 alumni and friends gave. A surprise gift of \$5 million came from Mr. Hull's late mother-in-law Mrs. Margaret MacGregor Dyson, the mother of New York Deputy Mayor John Dyson.

Getting the money together for it was only the beginning of the job. Finegold Alexander & Associates, the Boston architectural firm that directed the restoration of buildings on Ellis Island, took on the challenge. Under its supervision, contractors ripped out the two floors separating the ground floor from the ceiling, drove 900 steel shafts through four feet of outer walls and bolted the shafts to circular steel hoops, making the Nott stronger than ever. For the leaky dome, the architects kept the horsehair insulation but devised a high-tech rubber membrane that had to be punctured and resealed for each of the tiny new illuminators. And they replaced missing tiles with new ones specially made by Craven Dunnill, the original English supplier.

At a time when colleges are so pressed for funds, it's either something of a feat or a folly to spend so much money restoring a building that does so little. It will now serve as a reception and lecture hall with a study center and college museum on its balconies.

One of Nott's critics over a century ago wrote that the building is "all show, all to catch the vulgar eye, all to be gazed at." But as Mr. McCullough said at last month's unveiling, "It may be all show, but what a show, what a feast for the eye."

THE WHITE HOUSE
WASHINGTON

DATE: April 5, 1995

TO: Judge Mikva
Mike McCurry

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

Let's Discuss.

Mr. President, we are committed to changing the way the U.S. Government operates. We believe this includes analyzing the existing programs, rules and regulations to determine whether the status quo is working effectively or whether change is warranted. Unfortunately, your Administration has, time and again, refused to completely and openly respond to the inquiries necessary to make that determination. Moreover, the Administration appears to have repeatedly used the civil service and taxpayers' dollars to conduct inappropriate political activity. The following illustrative examples provide the basis for our concern:

A. U.S. Department of Labor

Articles in The Washington Post and The Washington Times suggest that Labor Secretary Robert Reich inappropriately politicized Department of Labor staff. Moreover, when asked to respond to a specific request concerning this matter from Joint Economic Committee Chairman, Connie Mack, the Secretary failed to disclose the relevant documents. In fact, Secretary Reich denied that there was any political activity

President William J. Clinton
April 11, 1995
Page 2

occurring under the direction of the "Central Oversight Group" and further stated that "there is no actual memorandum on this subject nor any memorandum providing 'political direction' to the Bureau of Labor Statistics."

The Commissioner of the Bureau of Labor Statistics, however, sent Rep. Jim Saxton, the Vice-Chairman of the Joint Economic Committee, a copy of a January 3, 1995, Central Oversight Group memorandum, entitled "Assignments to Oversight Team" that detailed various political information-gathering and writing assignments. Furthermore, the evidence indicates that other documents may exist and that various Department of Labor civil servants were asked to work on inappropriate political activities. We believe these actions indicate a disregard for an open and honest relationship between Congress and the Department of Labor.

B. Environmental Protection Agency

Yet another instance involves a request by the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the Committee on Government Reform and Oversight ("the Subcommittee"). The Subcommittee received evidence of possible violations of the criminal anti-lobbying laws by Environmental Protection Agency ("EPA") officials. Subcommittee staff first tried to obtain information from EPA through informal requests. When that effort failed, the Subcommittee Chairman sent a formal request for information to the EPA Administrator, Carol Browner. Ms. Browner asked for and was granted additional time to provide the information, but the resulting letter was wholly inadequate, non-responsive and contained arguments why EPA need not provide the information requested. Subcommittee Chairman David McIntosh and Ranking Member Collin Peterson then sent the Administrator a joint letter demanding complete responses to all of the Subcommittee's previous requests for information. Since then, EPA has provided a tiny fraction of the documents the Subcommittee requested but has claimed publicly that its production was thorough and complete. Moreover, EPA admits that it might ask the President to invoke executive privilege to prevent the Subcommittee from looking at some of the documents. Recently, EPA officials said that they do not know if EPA will answer some of the requests for information and do not know when they might be in a

"The 'Central Oversight Group' was a political group inside the Department of Labor established by Secretary Reich to 'coordinate the department's' response to an expected outbreak of congressional hearings on a wide range of departmental programs."

President William J. Clinton
April 11, 1995
Page 3

position to make that decision. As the Subcommittee Chairman and Ranking Member wrote on March 21, 1995, "EPA simply cannot pick and choose which of the Subcommittee's requests for information it will honor and which it will reject."

C. U.S. Department of the Treasury

Another case involves H.Res. 80 passed by the House of Representatives on March 1, 1995, requesting documents concerning the Mexican financial crisis. Rather than providing the documents and information within the 14 days specified in the Resolution, the Administration allowed the deadline to pass without acknowledgment by the White House or the Department of the Treasury. The Administration then notified the House of Representatives that it would not be in full compliance until May 15, 1995. This date was moved up to April 6, 1995 only after protests by Chairman Spencer Bachus of the Oversight Subcommittee of the House Banking Committee. It was particularly disconcerting to read press accounts of the documents that had not been supplied to the House of Representatives but had been requested under H.Res. 80.

D. The White House

We are also concerned with the Administration's repeated and unpracedented attempts to usurp congressional power and prerogative in formulating public policy. With the issuance of the striker replacement executive order and [any other examples of executive orders or new regulatory activity?] other executive orders, we are concerned with the possibility of a concerted effort by the Administration to circumvent the Congress and its deliberative process by unilaterally enacting Executive branch policy. In each instance, the Administration's efforts touched upon an issue or an area of the law that the Congress had previously declined to address or act upon. Although we certainly appreciate the Administration's desire to implement its policy agenda, we believe that the constitutional safeguards provided by the constitutionally mandated separation of powers and the specific delineation of power between the Executive and Legislative branches demand greater restraint and moderation by the Administration in the use of Presidential fiat.

E. Department of Health and Human Services

The Department of Health and Human Services' Administration for Children and Families ("HHS") has been preparing and distributing reports to fight the Republican welfare bill. A notice of these reports was faxed to opponents of the legislation indicating that the reports may be picked up at HHS. In testimony to the House Appropriations Subcommittee on Treasury, Postal Service, the Assistant Secretary at HHS for this office, Mary Jo Bane, admitted to Representative Ernest Istook that HHS

President William J. Clinton
April 11, 1995
Page 4

routinely attends and even participates in outside coalition meeting with groups who actively lobby against the Republican Contract with America. We believe this politicalization of the civil service at HHS is inappropriate and raises other questions about improper official activities at taxpayer expense.

F. National Head Start Association

A mailing and memorandum recently circulated by the National Head Start Association ("NHSA") is another example of how a government program is enlisting bureaucratic ranks to lobby on its behalf. Although in theory a private, nonprofit organization, the NHSA in fact receives a majority of its funds through federal tax dollars (i.e., dues and fees paid by its federally funded Head Start membership). When proposals began to surface earlier this year to block grant Head Start funds to states as part of welfare reform, the NHSA launched an effort to mobilize "grassroots" opposition among Head Start centers in the states. The result is that the lobbying now occurring on behalf of Head Start is being subsidized by the taxpayers, the very taxpayers that pay for the program itself. Lobbying efforts that utilize taxpayers' dollars are absolutely improper.

G. Department of Housing & Urban Development

A similar misuse of federal funds for lobbying purposes occurred with the Department of Housing and Urban Development ("HUD"). Claiming that Congressional budget cuts would "dramatically expand America's underclass" and would lead to increased "homelessness" and "substandard housing," Secretary Cisneros called on various organizations to rally against the Republican plan. These meetings occurred in New York City, Detroit and Atlanta. The use of federal funds to invoke scare tactics is improper and should not be tolerated.

We believe that this Congress has been charged with the duty of streamlining the federal government, tightening the federal purse strings and holding executive branch officials accountable for their official activities with taxpayer dollars. In order to achieve these goals, we must be able to conduct meaningful, traditional and constitutionally-sanctioned congressional oversight activities. Cooperation from your Administration is vital. Accordingly, we respectfully request that you insist that the members of your Administration respond fully and promptly to congressional inquiries, provide requested documents in a complete and timely manner, and be forthright in furnishing information.

Sincerely,

[Proposed signatories - House Chairmen of committees, Subcommittee chairmen or not?]

THE PRESIDENT HAS SEEN 4/5

THE WHITE HOUSE
WASHINGTON

April 4, 1995

95 APR 4 P8:00

RECOMMENDED TELEPHONE CALL

TO:

Mayor Richard Daley

DATE:

April 4, 8:30 p.m. EST.

RECOMMENDED BY:

Doug Sosnik

PURPOSE:

To congratulate him on the Mayoral race

BACKGROUND:

Mayor Daley is being challenged by former Attorney General Roland Burris (I) and former professional clown Ray Wardingley (R). The race has long been viewed as a foregone conclusion and the campaign has been a quiet one. Daley has put forth a positive message on what he has done for Chicago and has barely even acknowledged the existence of his opponents.

Daley's popularity among African Americans has always lagged behind his popularity in the city as a whole. He made improving his relations with African Americans a priority for his campaign and won the endorsements of several important groups in the African American community. Turnout is expected to be extremely low.

TOPICS OF DISCUSSION:

Chicago Mayoral election.

CONTACT PERSON AND
TELEPHONE NUMBERS:

Mayor Richard Daley
The Hilton: (312) 922-4400
Ask for the South Imperial Suite

DATE OF SUBMISSION:

April 4, 1996.

ACTION:

[Handwritten signature]
[Handwritten signature]

THE WASHINGTON POST

MONDAY, APRIL 3, 1995

THE FEDERAL DIARY

Forced Early Retirement

By Mike Causey
Washington Post Staff Writer

Career intelligence agency workers could be forced to retire—at age 50 or earlier on sharply reduced pensions—under a proposal that intelligence community brass will make to Congress next month.

If the proposal is approved, agencies could make "time-limited" appointments for new hires. Workers forced to retire would be exempt from the protection of age discrimination laws. The plan was developed by a special intelligence community task force headed by former Defense Department personnel official Christopher Jehn.

Backers say downsizing and the fast-changing mission requirements mean agencies need to be able to replace burnt-out employees or those with obsolete skills. A new performance system would be used to reward achievers and to let a worker "know more precisely his/her overall value to the organization." A source who asked not to be identified said "some of this is an outgrowth of the Aldrich Ames thing." Ames, a Soviet and Russian mole now in prison, was kept in sensitive CIA jobs for years "despite bells and whistles sounding" about his drinking, poor performance and jet-set lifestyle.

The mandatory retirement plan would cover staffers of the Defense Intelligence Agency and the National Security Agency and some from the FBI, the Treasury Department and the Energy Department. The CIA already has power to force certain employees to retire.

On March 15, Sen. Arlen Specter (R-Pa.), chairman of the Senate Select Committee on Intelligence, was advised that the task force has "agreed that a mandatory retirement program can be an effective tool to manage work force size, skills mix, and work force quality."

The Civil Service Retirement System, which covers most senior and mid-career intelligence personnel, allows employees to retire at age 55 after 30 years of service. Pensions are based on salary and

service. The typical federal worker retires at age 61. A 30-year employee gets a starting pension equal to about 55 percent of salary.

Early retirement is available at the agency's discretion. Workers can leave at age 50 with 20 years' service or at any age with 25 years. But it is voluntary and unpopular. That's because pensions are reduced 2 percent for each year the retiree is under age 55.

Forcing early retirement on a middle-aged DIA specialist in Soviet missile nose cones or an NSA translator of a rare Asian dialect—at one-third the promised pension—into a labor market that isn't clamoring for those skills could make some after-prison work programs seem generous by comparison.

G. Jerry Shaw, general counsel of the Senior Executives Association, said the task force's tentative proposals "are the most chilling [personnel proposals] I have ever seen. They're saying they want to be able to kick people out early, on less than a living wage annuity, without the employee having any recourse to administrative or legal procedures. It means they could go after 55-year-old white males today. And tomorrow they go after women and then next African Americans and somewhere down the road Hispanics."

The intelligence task force already has drafted legislation on "directed retirements" and is scheduled to present a report to the Senate and House intelligence committees in May. The Senate committee is busy with hearings on covert activities in Latin America. Specter announced last week that he is seeking the Republican presidential nomination.

Surtax on Feds

The House Rules Committee shortly will decide whether to make a controversial pay-more, get-less federal pension plan part of the tax-cut bill. It would raise employee retirement contributions from 7 to 9.5 percent of pay and reduce future benefits. For a progress report, check this space tomorrow.

THE PRESIDENT HAS SE

4/4/95

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Lynn
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THE PRESIDENT HAS SEEN

414195

The Washington Times

MONDAY, APRIL 3, 1995 *

Caution urged on affirmative action

By Major Garrett
THE WASHINGTON TIMES

Rep. J.C. Watts, a freshman Republican from Oklahoma and member of a House task force on affirmative action, warned Republican leaders yesterday against using the volatile issue for short-term partisan advantage.

"I don't think that that's something that needs to be politicized," Mr. Watts said during an appearance on NBC-TV's "Meet the Press."

"I think if that issue is going to be dealt with, I think it needs to be dealt with out of a Republican-Democrat context," Mr. Watts said.

"It scares me when we use this issue ... for political reasons."

Mr. Watts, one of two black Republicans in the House, said some affirmative-action programs disproportionately benefit wealthier minorities while leaving "Joe Six-Pack" behind.

"When you consider that there are people benefiting from affirmative action that are worth, you know, a half a billion dollars, you

see CAUTION, page A 22

From page A1

know, that to me says that there's something out of kilter about the system," Mr. Watts said.

"The affirmative-action debate, in its noble beginnings, I think for the most part has overlooked your Joe Six-Pack minority out there on the streets and has benefited those that do not need affirmative action," Mr. Watts said.

Congress is in the final stage of passing legislation to repeal a 17-year-old tax break for corporations that sell broadcasting firms to minorities. Instead, Congress will provide a permanent tax exemption for health care costs paid by the self-employed.

At the last minute, provisions were added to preserve two pending transactions involving record producer Quincy Jones.

Mr. Watts said that just as widespread discrimination against minorities — enforced by Jim Crow laws — violated basic morality, affirmative action, while well intentioned, may have gone too far and lost its moral authority.

"When you design a system to favor someone because of the color of their skin or because of their gender, what you're doing is you're penalizing people for the way God made them," Mr. Watts said.

Nevertheless, Mr. Watts said racism influences hiring and firing and even crept into his own campaign for Congress.

"I don't think that we can stick our head in the sand and say that racism and discrimination doesn't exist," Mr. Watts said. "I think we need to take a very good look at it, we need to review it and try to come up with something that's equitable."

Mr. Watts' accused his opponent, lawyer David Perryman, of racism for broadcasting TV commercials with a high school picture of Mr. Watts wearing an open-neck shirt, beads and an Afro.

Mr. Watts and other Republicans accused Mr. Perryman of trying to frighten Oklahoma voters with the image of Mr. Watts with an Afro hairstyle.

At the time of his congressional campaign, Mr. Watts was corporation commissioner, a statewide elective post he was the first black in state history to capture.

"The ad is clearly designed to exploit prejudices and stereotypes which exist in some quarters about black athletes," Mr. Watts said about the Perryman advertisement during his campaign.

*For
the many who
are in the
house, this
is a very
important
issue. I
think it
needs to be
dealt with
in a
Republican
context.*

Missile Project Became A \$3.9 Billion Misfire

Multi-Service Endeavor Faltered From Start

By Bradley Graham
Washington Post Staff Writer

Designed and funded in secrecy, it was to be a missile like none before it—invisible to radar, guided by on-board computers and launchable by any of three military services.

But after nine years of delays, contract disputes, failed tests and \$3.9 billion in taxpayer funds, the Clinton administration terminated the program a few months ago.

No one was held accountable for the demise of the Tri-Service Stand-off Attack Missile, known as TSSAM (pronounced TEE-sam), pictures of which were officially released just months before the project was scrapped. Defense Secretary William J. Perry attributed the cancellation simply to "significant development problems" and production costs that were "unacceptably high."

But the story of TSSAM, pieced together from interviews, provides a cautionary tale about Pentagon procurement gone awry. It reveals a mismanaged program, overly ambitious from the start, that ran into trouble early and was allowed to go on faltering for nearly a decade.

The military insisted it needed such a weapon to penetrate enemy air defenses and strike with pinpoint accuracy. The Air Force, Navy and Army agreed to develop a common missile to save money, then raised costs by requesting numerous different models of TSSAM.

Northrop Corp. committed to doing the job at a preset price, then realized it had underestimated the challenge and was handicapped by the program's secrecy in recruiting experienced staff. The company and the Pentagon spent countless hours battling over cost overruns.

See MISSILE, A8, Col. 1

MISSILE, From A1

which added to bureaucratic paperwork, delays and defensiveness.

On Capitol Hill, some House members moved repeatedly to shut down the program, but TSSAM continued to receive strong Senate support, particularly from Sam Nunn (D-Ga.), then chairman of the Armed Services Committee, whose home town stood to benefit from TSSAM production.

TSSAM's lessons are especially relevant for the Clinton administration, which plans to initiate a "son of TSSAM" program this summer. Pentagon officials say they still need a medium-range, autonomously guided, radar-evading missile. They hope to capitalize on TSSAM's positive legacies, which include breakthroughs in stealth technology and missile guidance and control systems.

In fact, some of the same procurement themes that TSSAM was supposed to affirm—the greater affordability of weaponry when shared by all military branches, the application of stealth technology, the benefits of extended-range, precision weapons—have become core principles in Pentagon planning. Defense officials say TSSAM's troubles should not discredit these principles but rather should serve as a warning for better planning, more flexible contracting and more rigorous stewardship in future high-risk development projects.

Unprecedented Demands

TSSAM was authorized in 1985 as the first multi-service missile, a project promoted largely by Congress to push the armed forces into developing common weapons rather than pursuing individual designs and redundant capabilities. Strategically, the stealthy TSSAM was presented as a logical complement for radar-evading jet fighters and bombers. It also was intended to extend the usefulness of non-stealthy aircraft by giving them a high-tech missile they could fire while maintaining their distance from enemy radar.

The Air Force, Navy and Army acceded to merging the separate development programs they had started, but it was a shotgun marriage that never took completely. Instead of going for a genuine one-size-fits-all missile, the services asked that TSSAM come in various models to fit on eight platforms and carry five kinds of warheads.

Never had more demands been placed on a single weapon system to meet such a variety of operating environments.

The Air Force wanted a missile it could fire from F-16 fighters or drop from B-52, B-1 or B-2 bombers to strike—more than 100 miles away—"soft" targets like airfields and "hard" targets like reinforced concrete bunkers. The Navy initially required a missile that would shoot from F-18, A-6 or A-12 aircraft and penetrate not only hardened targets on land but moving ships at sea. The Navy also wanted the missile to have a "man-in-the-loop" capability, enabling it to receive instructions in flight from the cockpit; the Air Force preferred a "fire-and-forget" approach.

And the Army wanted a missile that could be propelled out of canisters in its Multiple Launch Rocket System and, carrying cluster munitions, hit groups of targets like tank columns.

In addition to integrating TSSAM into various service systems, its creators faced the challenge of engineering many unprecedented feats. Making a stealthy missile was only

THE WASHINGTON POST

MONDAY, APRIL 3, 1995

one of them. TSSAM's infrared seeker, which homes in on a target using complex signal processing algorithms; its navigation system, which draws on satellite global positioning data; and its control system, which involves a series of intricate mechanical and electronic links, all had to be invented.

By contrast, the F-117 jet fighter, another supersecret stealth system under development at the time, was able to model its engine, landing gear, avionics and other components after existing aircraft designs.

"TSSAM was a pretty complex undertaking," said Paul Kaminski, who worked on the F-117 in the early 1980s and is now undersecretary of defense for acquisition and technology. "I don't think the people undertaking it really had time to get this all on board."

They weren't given much time. The service programs were merged in June 1985. The Pentagon requested bids for TSSAM in October. Negotiations were completed by the following March, and the contract was awarded in April 1986 to Northrop, which was selected over Lockheed Corp.

The Pentagon insisted on a fixed-price contract, which was in vogue in the 1980s but would become a primary factor in TSSAM's undoing. The contract set a price ceiling, meaning Northrop bore all the risk and could get paid more only if the government was responsible for changes in the project along the way. Northrop would have preferred a cost-plus approach, allowing a certain profit over unforeseen development costs.

"You can do a fixed-price contract if you've built one before or if you know all the technology," said a senior Air Force general who agreed to discuss TSSAM on condition he not be named. "But it certainly isn't the way to go when you're talking about a risky project using never-before-tried technology. You need some flexibility."

Nonetheless, Northrop accepted the terms.

"We didn't have a lot of choice—it was take it or leave it," said a former Northrop executive who did not want his name used. "But because it was a high-volume, tri-service program, we figured the potential was there to more than cover all the costs."

THE PRESIDENT HAS SEEN
4/4/95

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THE WASHINGTON POST
Monday, April 3, 1995

Missile Project Went From Ambitious Endeavor to Costly Flop

Delays and Miscalculations

Northrop also planned to employ some low-cost production techniques and had been assured by key subcontractors that the project was doable. Moreover, Northrop was counting on minimal governmental interference in what had been touted as a model of streamlining in Pentagon acquisition.

The way this contract was written in 1986 was one of the strangest things," a senior Air Force official said. "It was very vague. Basically it said, 'Do what you have to do to develop this thing.'"

But the Pentagon and Northrop had badly miscalculated. About 18 months after beginning TSSAM, Northrop served notice that it would never again undertake development of a weapon system on a fixed-price basis. By then, however, the company was mired in program delays and rising costs.

Relations between Northrop and the Pentagon soured as both built up large administrative staffs to document arguments about who was responsible for what program change and what cost overrun.

"Things became extremely bureaucratic," Kent Kress, Northrop's chief executive officer, recalled in an interview. "Everyone felt he had to look out for himself."

That meant not only spending considerable time in contractual disputes. It also gave Northrop little incentive to risk new, more creative approaches to the job, Kress said.

Defense officials complained that Northrop was managing the program poorly. Turnover among senior people was high; programmers stumbled over how to write the complex computer software that would guide the missile in flight and identify the target; Northrop appeared woefully short of employees with the experience needed to build such a sophisticated missile.

With its B-2 bomber program also

experiencing difficulty, Northrop clearly was stretched.

"I think they took on more than they could probably do," Kaminski said.

Northrop complained that the Pentagon was not providing the aircraft performance data and other information necessary to design the missile. The company objected that defense officials were micromanaging the project and speaking too often not with a united voice but three separate service voices.

As early as January 1989, the General Accounting Office concluded that the program "was experiencing more than the normal amount of difficulty during development," GAO officials said in written answers to questions from The Washington Post. From then on, the GAO repeatedly urged a resistant Pentagon to delay production until the development problems could be resolved.

By 1989, when production was originally scheduled to start, the program had fallen many months behind, and Northrop presented the government with \$1.5 billion in claims for additional costs. The company settled for \$700 million the next year.

Support From Nunn

In Congress, meanwhile, members privy to the classified details of the program were voicing concern. But efforts by the House to scuttle or scale back the troubled project were resisted in the Senate by Nunn and others.

It was in Nunn's home town of Perry, Ga., that Northrop had erected the plant that was to build the missile, although even opponents of TSSAM said the senator's commitment to the program went beyond parochial interests. He had been an avid supporter of other stealth programs, including the F-117 and B-2, and he vigorously defended the strategic rationale for TSSAM.

"Nunn's staff was as determined as I've ever seen them that TSSAM

was going to be built," said a House staff member who spoke on condition of anonymity. In fact, Nunn's staff came to perceive challenges to TSSAM essentially as attempts to gain leverage over the senator for political deals in House-Senate conference meetings.

"I never paid any price for TSSAM," Nunn said in an interview.

Inhibiting wider scrutiny of TSSAM was its highly classified nature. Even today, many who were associated with it remain reluctant to discuss its history because much information still is top secret.

Northrop's Kress said the secrecy surrounding this and other cruise missile projects complicated the company's attempts to hire qualified people to develop TSSAM and prevented Northrop from learning about General Dynamics Corp.'s experiences engineering the Tomahawk and Advanced Cruise Missile.

Northrop had promised to produce TSSAM at \$728,000 per missile, based on orders totaling 2,000. But repeated delays and rising costs prompted the Army to drop out of the program in 1991. By last year, the number of projected orders had fallen to 4,756 and the price per missile had climbed to \$2.4 million.

For all its difficulties, TSSAM might well have stayed alive had the Cold War not ended and budget pressures not prompted Pentagon officials to cut back on programs.

The Air Force continued to push for TSSAM, saying the missile's unique capabilities were still needed. Management relations on the project had begun to improve after monthly conferences were instituted between Kress and senior Pentagon officials. Northrop officials say the biggest design challenges—stealthiness, maneuverability, autonomous guidance—had been achieved.

Too Many Test Failures

But TSSAM's ability to perform reliably remained uncertain. Its initial test results compared favorably to other cruise missile development programs. But in the final nine tests between mid-1993 and late 1994, TSSAM flopped seven times, eroding confidence in the weapon among Pentagon officials.

Northrop argued that the test failures did not mean the missile was unreliable, pointing out that each failure had a different cause. But too many of the causes, Pentagon officials said, involved things that should not have been going wrong.

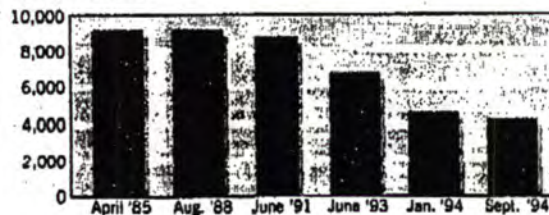
Perry finally killed the program in December. While the Pentagon's desire for a multi-service, medium-range, precision-guided, stealthy missile has not gone away, defense officials said the next time around, they will try for something less ambitious and more affordable—and under a more flexible contract.

Northrop—now Northrop Grumman Corp. after last year's merger—has declared \$622 million in losses on TSSAM and is hoping to reach a negotiated settlement with the Pentagon over the additional costs of closing down the project. At the plant in Perry, meanwhile, which was to produce the high-tech missile, Northrop is building doors, frames, floor beams and other mundane parts for Boeing Corp.'s 747 commercial airliner.

BUMPY COURSE FOR CRUISE MISSILE

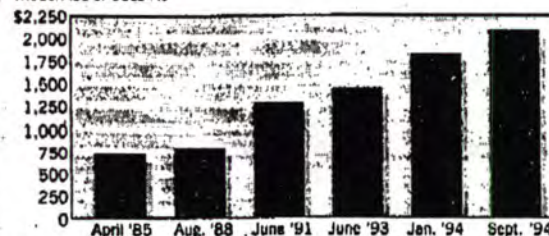
As the planned orders for the Tri-Service Standoff Attack Missile declined...

NUMBER OF MISSILES



... the cost per missile nearly tripled.

THOUSANDS OF DOLLARS



SOURCE: General Accounting Office

THE WASHINGTON POST

Leon/Bony
He is a ~~man~~ ~~man~~ ~~man~~
on the ~~man~~ ~~man~~ ~~man~~
don't be stupid
Bony

THE PRESIDENT HAS SEEN
4/4/95



Ralph White

MDI

Manufacturing and Distributing International, Inc.

913 South Hughes • Little Rock, Arkansas 72204

PRIVATE

Handwritten:
Handwritten
Ralph & Mary
Handwritten
P/S Counter
Cavalier & Co
RT

THE PRESIDENT HAS SEEN
4495

PRESIDENT BILL CLINTON



MIDI

THE PRESIDENT HAS SEEN

4-4-95

Manufacturing and Distributing International, Inc.

March 31, 1995

The White House
Office Of The President
Washington, D.C.

Dear Mr. President:

I am addressing this letter directly to you because of its extreme significance to you, the State of Arkansas, and the nation. Because of the importance of what needs to be discussed with you I want to make sure you personally receive this letter and not have it short circuited by a staff member who might not discern its importance.

You already know who I am and that I have been an ardent supporter of you throughout the years as Governor and President. I will be rather blunt in what I have to say. It is strongly believed that what a nucleus of High Tech companies and I have put together will be very helpful to you in your quest for reelection in 1996 and, at the same time, will result in significant benefits to Arkansas and the rest of the nation.

Your "National Jobs Initiative" concept has motivated me to gather the resources needed to develop a cost effective, managable program to meet many of the objectives of such a program for the nation.

I am pleased to inform you that a team of companies from around the nation and I share your vision for a national jobs initiative. We believe the program has the potential for generating millions of jobs and will save the nation billions of dollars daily in new revenue by eliminating welfare fraud and the way traffic citations and parking tickets are being processed today.

We have worked out the details of this national jobs initiative and we can help make this special initiative a big success in Arkansas and the nation.

Because the jobs associated with upgrading the nation's infrastructure could be Phase #1 of a national jobs initiative, we believe those "Hi Tech" jobs associated with bringing the Super Information Highway to its maturity in this nation and the world could well be the very timely Phase #2 of the jobs initiative for the nation.

The associated pay for the "Hi Tech" jobs is substantially higher than minimum wages and will allow those on welfare to be successfully removed from these rolls. They can be placed in special training for a guaranteed job placement at little or no cost to the federal government. Training and job placement will be the responsibility of the private sector.

I have been successful at bringing resources together from around the nation, capable of making this phase of the National Jobs Initiative successful. For example, IBM has joined the team of "Hi Tech" companies that will incorporate technological innovations into the National Jobs Initiative.

We have been able to bring synergistic realities to some of the nation's most critical issues. The billions of dollars of new revenue daily and the generation of millions of "Hi Tech", high paying jobs will result from our doing the following:

1. Eliminating food stamp fraud
2. Eliminating free and reduced meal fraud in schools
3. Increasing the efficiency of law enforcement
4. Reducing crime in communities
5. Increasing the effectiveness of the Border Patrol
6. Making school buses, school bus stops and school bus routes safer
7. Removing weapons from schools
8. Processing traffic citations and parking tickets electronically, eliminating the need for the Courts to reject citations because of poor penmanship and stature errors. For example, the State of Florida estimates it would save approximately \$50 million annually by using the innovative equipment developed by New World Services, Inc.
9. Reducing school and classroom interruptions
10. Helping other nations generate jobs, with strategic production done in the United States

Arkansas is the right state for a Pilot Program. After meeting with the Governor and his staff and soliciting support from some of the major corporations, I am convinced that Arkansas can show the nation how the National Jobs Initiative can be successfully implemented.

Colorado, Tennessee, New Jersey and Florida are states that can join Arkansas to make the Pilot Program large enough to show significant progress in the targeted areas.

Among the recommendations we offer is the one which adds the knowledge type jobs and related jobs in the information industries to the defense critical industries in our Defense Industrial Base. When this is done, few if any of the jobs in question should be allowed to leave the nation, under any circumstances.

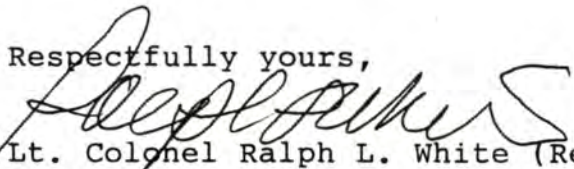
A Pilot Program for the nation can be started in the State of Arkansas immediately. With your vision and leadership, coupled with that of Governor Tucker, and the desires of many in the state, could result in 20,000 to 50,000 jobs for the state.

This program can be realized in Arkansas and any other state at very little cost to the federal government.

I am sure you realize that a program of this magnitude and significance can not be explained adequately in a letter. Therefore, I will end this letter with the anticipation that you will allow key officials of New World Services, Inc., IBM, Husky Computers, Inc. and me to meet with you as soon as possible so we can make a detailed presentation to you and applicable staff. We are prepared to help make this national program a world class success story, since jobs can be created in other nations for their benefit with our know-how and products.

Mr. President, I am looking forward to seeing you again.

Respectfully yours,



Lt. Colonel Ralph L. White (Ret.)
President
MDI, Inc.

THE PRESIDENT HAS SEEN
414195

Mark
Pls call me
m: Rich
B

Mr. President,

The budget OMB submitted proposes privatizing the Federal prison in Forrest City. The State put almost \$1 million into the land, & the City has put \$5 million in this, all local funds via a 25% increase in water/sewer rates. Only the 1st unit of the 4-unit complex has been funded,

and the BOP (off the record) feels that privatizing this first unit will reduce incentives to build the other 3 units.

If we only get 1 unit, our \$5 million investment (as well as the state's \$1 million) will not repay, as the economic benefit will only be a fraction of what was proposed in the full complex.

Our wish list - (1) Forrest City facility remain BOP operated as originally proposed (2) additional units funded (2nd unit is projected to be

Tell them they're a big bug.

\$13 million - \$6 million has been funded & design is complete - can't go to bid unless remaining \$7 million is appropriated.

Forrest City made tremendous sacrifices & investments to get this federal prison complex as originally proposed. We would deeply appreciate your getting this complex back on track.

Best of luck, and we will always remain strong supporters of you and your Presidency.

W. J. Ferguson, Mayor, Forrest City
L. L. [unclear] & L. L. [unclear]
I'll get it, & make all those 3 and 4 years.
We'll see ya.

② Lin Cote
cc: D. Bae

① Get in the book
from library
have it
ordered
\$4.95
Ar

Christopher Ashby
17 Side Hill Rd
Westport, CT 06880



RECEIVED

MAR 27 11:11

USE MAIL
J OEOB

President Bill Clinton
The White House
1600 Pennsylvania Ave, NW
Washington, D.C. 20500-2000

20500-2000



March 24, 1995

Dear Bill,

I recently began reading the Christian Science Monitor, at the suggestion of Genie Askren, and I came across the enclosed article. I am sending it to you because it struck me that it hits on a theme that I have missed in the current debate, which is practicality and the effectiveness of the various programs that the Republicans are trying to eliminate. Some of these eliminations are the result of their political philosophy, but most are an argument about the best way to accomplish something. It has always impressed me that Governors are clearly more results oriented than legislators, for obvious reasons. But in the current debate, the Governors of both parties, but especially the Republicans, seem to be in favor of block grants because they think they can handle the problem better. I haven't heard any Governor or legislator say that we should not be concerned with poor people or their children. The real debate ought to be, what is the most effective way of solving these problems. This article is talking about the actual, historical effects of the minimum wage; does it decrease employment or not, does it help to reduce the disparity between the under class and the middle class or not, does it reduce economic growth or not. These are questions that ought to be able to be answered in an objective way. But that doesn't seem to be happening.

The clearest example of this is in crime. If we can all agree that the primary objective of the criminal justice system should be to reduce crime, and the secondary focus should be just punishment for the guilty and protection for the innocent, then we can move to the second step. Does capital punishment application to a broader range of crimes reduce crime. Do longer jail sentences reduce crime. Does more strict term sentences such as 3 strikes and you in, or mandatory sentences, reduce crime. Do more police, or better trained police, reduce crime. It appears to me that the answers to many of these questions are objectively determinable, not just to back up a particular preconceived notion or a political philosophy. I for one would be for longer sentences and more jails only if I think it will make me and my family safer. If it does not, then why spend the money. I personally would rather not have my society engage in capital punishment, but if I can be shown that it makes me safer, then I will support it. But the political system is not talking about this, this is not the focus of the debate.

Another great example is affirmative action. The most fundamental question is not, should it work, but does it work. I was in favor of school busing because I thought it would work, I thought it would lead to more integrated societies, and more equality of opportunity leading from more equality of education. It did not. For whatever reason it did not work, and was terminated as a policy. It seemed to me that a difference between the "New" Democrats and the "Old" Democrats

and the Republican, is that the New Democrats were the only ones who were results oriented, who were pragmatic and not primarily philosophical. The Republican Party has been captured by true believers, who approach every issue not of the basis of what works, but on what fits into their philosophy. I think there is opportunity in focusing on the output. I hope Cisneros survives because he seems to be able to figure out what the end result is supposed to be, and works toward it. Most politicians focus on what the process should be and who should be involved, and do not worry if it doesn't work. Things that do not work have been continued for generations because the process fit the consensus and the right people were involved.

I am reading a really interesting book, Between Two World by David Callahan. He wrote another book last year, Dangerous Capabilities, about Paul Nitze. I will not go into detail here, and I doubt you will have time to read it, but it is interesting. People and times can be classified along two continua, one between isolationism and internationalism, and the other between realism and idealism. Kissenger was a realist/internationalist, Fulbright and Wilson were idealist/internationalist, the Republicans are realist/isolationists, and Franklin Roosevelt was an idealist/isolationist before the War. You are a idealist/internationalist. Quigley would go wild with this stuff. But the really interesting argument made by the book is that realist, heavily influenced by Hans Morgenthau(?), always felt that relations among nations were a direct result of human nature, which was inherently predatory toward others and defensive about ourselves. Since human nature is not going to change in the short run, neither will the nature of international relations. Callahan argues that there is such a thing as evolution in the conduct of affairs, war can become socially unacceptable, and that nations and peoples can learn and change. History is not destined to repeat itself. So ~~depending on your faith that things have changed~~, that it is not likely that Germany and France will have another war even though they have had several in the past, will determine how much risk you are willing to take on in the development of international organizations, and the belief that it is better to support democracy rather than supporting friends because because democracies normally do not wage war against other democracies. Are things getting better, getting worse, or really just the same as they have always been? Interesting stuff.

I trust all goes well with you. The Republicans are great spectator sport, and I am enjoying watching Bob Dole try to appear religious right, and Phil Graham try to appear mainstream American. Great fun.

Best Regards
Kit

cc JKH
cc KC
cc JKH

WHITE HOUSE
WASHINGTON

Source: Mr. P.

Make sure he has
your # + special zip

David Lee
Gravity Sports Concepts, inc.
11778 West Waterway Drive
Homosassa, Florida 34448

Dear David:

Thanks for your wonderful letter of February 21 and for the update on where you are and what you're doing. I really appreciate your sharing with me your book about "gravity" golf. I'm always looking for ways to improve my game, and I know I'll enjoy reading about your work.

Thanks, too, for what you said about the job I'm doing. I was really touched by your encouraging words and am grateful for your support. Nobody ever said this job would be easy, but I'm convinced that we've made great progress and am confident we'll continue to do so in the months ahead.

If you ever get to Washington, please give me a call at 202/456-6610. I'd love to be able to play like Jack Nicklaus!

Sincerely,

Ron

*It was great to hear
from you after all this time
Please let Nancy Hemmick
know if you're ever coming
up our way - I'd love to have
some instruction -*

GRAVITY SPORTS CONCEPTS INC.

Jeff
Lee
Suzanne
Feb

February 21, 1995

Dear Bill,

A lot of water has passed under both our bridges since the last time I saw you. I believe you were a sophomore sitting in the band at Hot Springs High School the day they gave the Don Stewart award (best athlete) to a golfer (me). All the guys on the football and basketball teams were not very happy about that one. Gosh, that was a long time ago! I don't imagine either of us will ever move back to Hot Springs but I do admit that I miss that town. It was a nice place to grow up.

Most of my family, Allen (whom you know), my folks, Nell and Bob Lee, my brother Bobby, Keely Ardman and her mother Ruth (owns the pancake shop), still all live there. Every so often I see your cousin Dan when I'm back home and go out to Belvedere. He's pretty serious about his golf. I haven't seen Liz since our twentieth high school reunion.

Currently, I am living in Florida and teaching golf at a gorgeous Tom Fazio course called World Woods, about an hour north of Tampa. I'm sort of a golf instructor/research scientist and this book which I've just finished is the result of about fifteen years of research on Jack Nicklaus' golf swing. The way I tea

The game is radically different but advanced enough that we can now train a beginner to an entry tour level player in only about one year. It's really fascinating. It's certain you don't get much time to work on your game but I thought you might enjoy reading about "Gravity" golf. If you would ever like to get a little of that "violence" out of your swing, I've enclosed my card.

I've thought a great deal about your amazing adventure since you were elected. It's obvious to one who wants to see, that you have an abiding love for this country and a deep desire to make it a better place for all of us. It's a sad sign of the times that there are so many self-serving people who want to fight you every step of the way. Being a controversial golf instructor, I can somewhat relate to the frustration you must often times feel. Hang in there and defend what you believe. Jesus couldn't make everyone happy. Your wife is certainly a brave lady and greatly to be admired for all she has undertaken.

The best of good fortune and if I can ever be of service to you, consider me enrolled in your camp. It's proud to see a kid from Arkansas make good, especially one I know, and humbly proud to call you Mr. President.

May God bless you and your family.

My very best,
David Lee

*cc: March
M: H. Energy
Dea*

HITE HOUSE
HINGTON

April 4, 1995

Richard H. Mason
President
Gibraltar Energy Company
200 North Washington Street
El Dorado, Arkansas 71730

Dear Richard:

Thanks for your letter of March 23. It was good to hear from you and to get an update on your recent trip. I appreciate your defense of me, especially in Texas.

Thanks, too, for your advice on the energy industry and for your suggestion about a tax credit.

Hillary and I hope to see you and Vertis soon.

Sincerely,

Bill

*Hang in there - we're
turning it — Texas
has done very well under
our administration but
hates to admit it!*



Gibraltar Energy Company

Natural Gas Exploration
200 North Washington Street
El Dorado, Arkansas 71730

March 23, 1995

President Bill Clinton
1600 Pennsylvania Avenue
Washington, D. C. 20500-2000

Dear Bill:

I have just returned from a trip to Texas, New Mexico, and Arizona. Naturally, the introduction that I am from Arkansas and I know the President never fails to illicit response.

In general, Arizona and New Mexico folks seem positive and supportive of the administration. However, in Texas the mood is fairly negative. At a recent party, I stopped a "how terrible things are" conversation with a quick comment about the economy, inflation, NAFTA, and the stock market. "You surely aren't giving Clinton credit for that, are you?". "Well", I said, "if the economy was going to hell in a handbasket, you would sure be blaming him." End of conversation.

On another subject; the Energy Industry. In a earlier letter, I mentioned the almost crisis condition that has hit the small, independents in the energy industry. Natural Gas prices have settled into a ten year low causing the premature abandonment of thousands of low volume gas wells. I am a small operator, and I have abandoned three wells this year because of low prices.

I know there are numerous multifaceted energy bills floating around Congress, none of which seem to going anywhere. The perception from the Energy Industry is that most of the Department of Energy programs are worthless. The two previous administrations have only watched as over 500,000 jobs have been lost, and the rig count has plummeted from 4500 in 1985 to 675 this week.

In one simple act, your administration could do more than 12 years of nothing from Bush and Reagan.

My suggestion is to do something very simple, yet very effective: pass a short, one sentence energy bill that would simply grant small producers a .50 per MCFG tax credit for all gas wells producing less than 200 MCFG/D.



Richard H. Mason - President, 501/862-5155

This would be revenue neutral since the majority of these wells would be plugged and all tax revenue lost if some relief is not granted.

Secondly, this would spur the small producers into more drilling and completions, resulting in increased employment and subsequently a stronger economy.

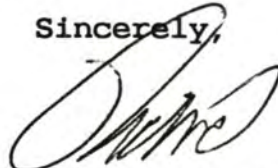
Well, so much for my Energy Industry advice.

Bill, let me know if I can be of any help in the 96 election campaign. I have started an environmental column which is mailed to all Arkansas papers. By the end of the year, I hope to be in several out-of-state papers. You can rest assure my column will paint an accurate picture of the Republican attempt to gut our environment law. I have enclosed a couple of recent columns. Ken Smith receives them each week if you would like to see more.

In addition, I have enclosed a newsletter from the U. S. Trust Company. Note the letter from "reader."

Sometime this year, Vertis and I would like to see you and Hillary. Let me know if an opportunity arises.

Sincerely,



Richard Mason

cf

Enclosures

P. S. * Jim Guy canned State Geologist Bill Williams today.
You know that made my day.

RHM





OUR STATE'S ENVIRONMENT

NATURAL SOLUTIONS

by Richard Mason



PASS THE CHICKEN, MAMA*

(*And Save The Environment)

THAT'S RIGHT, HAVE GRILLED CHICKEN INSTEAD OF THAT HAMBURGER, and you will be saving a piece of our environment. Now I know that sounds a little flaky, but consider the following: for a family of four to each order a Quarter Pounder, 16 pounds of grain, 2500 gallons of water, and one

**"16 POUNDS OF GRAIN -
1 POUND OF BEEF"**

gallon of gasoline will go into producing that one pound of beef. Compare that with the conversion rate for chicken. It takes less than two pounds of feed to produce one pound of chicken for your table. Other factors such as water and energy usage are also comparably lower.

Basically, our eating habits may be one of the largest contributors to environmental destruction. (If you happen to be a cattleman, this would be a good time to stop reading this article. Continued reading will raise your blood pressure and probably result in you wadding up this fine newspaper.)

WATER USAGE

Now let's take a close look at how cattle production affects key elements in the environment. First our water supply. Incredibly, livestock production consumes more than half of all water used in the United States. In addition, runoff from feed lots, grazing cattle on public land, and beef processing reduces water quality in hundreds of streams all across our country. In many areas, cattle grazing has reduced clear streams to muddy watering holes.

DEFORESTATION

An amazing 220 million acres of land in the U. S. has already been cleared primarily for livestock production. In Brazil, 25 million acres of rainforest have been deforested. This environmental tragedy is especially harmful because rainforest which cover only 2% of the earth's surface contain 50% of all species of plant and animal life. Each day, 96,000 acres of rainforest are burned primarily to clear land for cattle grazing. In Arkansas terms, that is one football field of rainforest every *second*. In Central America, over 50% of all forests have been cleared for beef production. In North America, over a third of our land is devoted to grazing. Half of American croplands grow livestock feed, mostly for cattle. And finally here is one of those environmental statements you may scoff at.

"COWS ARE CONTRIBUTING TO GLOBAL WARMING"

Cows are contributing to global warming. Now stay with me, and consider the following; the world's 1.3 billion cows annually produce nearly 100 million tons of methane. Modesty prevents a detailed explanation of the methane production. Let's just say if you have ever lived on a farm, you will have no problem believing this figure. Anyway, methane is a powerful greenhouse gas which traps 25 times as much solar heat as the other greenhouse gas CO₂.

PASS THE CHICKEN MAMA

So, that's the indictment against your Quarter Pounder.

If we continue our shift from beef to chicken by reducing our beef intake by an additional 10%, the saving in feed grain alone would feed 60 million people. That

just happens to be the number of people that starved to death worldwide last year.

Now let's consider the continuing loss of wildlife habitat, especially wetlands. A reduction in America's beef intake would free up millions of acres of cropland that could be restored to wetlands or forests. As Americans reduce their beef intake, a resulting increase in chicken production would take much less land than the amount used to produce beef.

A LOW RED MEAT DIET

Let's look at what we can do to reduce the amount of beef we consume. Step #1:

"SUBSTITUTE CHICKEN OR FISH FOR BEEF"

Reduce your beef intake to no more than one meal a week. If Americans substitute chicken or fish in their meal planning to this extent, on a permanent basis, it would make a phenomenal difference in our countries' overall environmental health. Over the past decade, Americans have shifted their eating habits to more chicken and fish and less beef. This simple and healthy move to eat lower on the food chain is probably the key to future environmental progress. And by the way, as you help the environment by cutting down on your consumption of heavily marbled beef, you will probably also live longer to enjoy your environment. So remember, the next time you drive up and start to order that hamburger, change that order to a grilled chicken and do your heart and the environment a favor.

Richard Mason is former Chairman of the P. C. & E. Board of Commissioners and past President of the Arkansas Wildlife Federation.



OUR STATE'S ENVIRONMENT

NATURAL SOLUTIONS

by Richard Mason



ARKANSAS' STREAMS IN DANGER

RECENTLY ARKANSAS STREAMS HAVE MADE THE NEWS. Several legislative bills have been filed that would impact the ecology and quality of our top resource streams. The most positive of these bills would stop gravel removal from 26 of these resource streams. On the other hand, a bill has been filed that would pay landowners damages if a stream flowing through their land is designated by P. C. & E. as a protected stream. However, since the Arkansas Supreme Court has already ruled that navigable stream beds are the property of the State of Arkansas, we would be compensating individuals for property they don't even own. That sounds like the legislature, doesn't it? Public hanging bills, backward masking, concealed guns, and state fish bills. Aren't we glad these Bozos don't meet every year?

GRAVEL MINING & DREDGING

Until a few years ago, I was under the impression that gravel mining and dredging only affected the stream at the actual point of removal. However, that is not the case. Sure gravel mining and dredging injure a stream at the point of removal, but more damage occurs upstream. When gravel, sand, or silt is removed from a stream, the stream is thrown out of equilibrium. In seeking to correct this imbalance, the stream pulls sediment from its upstream banks. The effect of creating unstable banks is more destructive than any amount of downstream damage.

STREAM DREDGING IS DESTRUCTIVE

In the same way gravel removal causes upstream bank erosion, dredging for barge traffic also creates the same problem. The Lower Ouachita River is probably the best example in the state. Since 1985 a nine foot channel has been maintained as far north as Camden. The nine foot channel is not the equilibrium point for the river. In fact, millions of tons of silt and sand have been removed from the river bed over the past 15 years. The result. Anyone who has fished or even motored up the river will notice the heavy bank erosion. In fact, as the Corps of Engineers dredge the channel, bank erosion is so intensified that a major portion of their continued maintenance is the removal of trees that have fallen into the river because of bank erosion.

FISH POPULATIONS REDUCED

Dredging, gravel mining, and bank erosion cause siltation, rendering many spawning areas unusable. Studies in frequently dredged and gravel mined rivers have found a substantial reduction in the fishery when compared to undredged streams.

OTHER STREAM DANGERS

Streams are Arkansas' greatest asset. If gravel mining and dredging were the only problem, I think we could handle that. However, our streams face many other problems. A list would include clearcutting which leads to increased siltation from runoff. Municipal discharges that frequently exceed permitted limits. Runoff from over fertilizing, especially from farms and golf courses, causing algae bloom and reducing oxygen which subsequently kills fish.

Pesticides that wash into our streams kill the smaller elements of the food chain rendering the streams sterile. Farms that have no buffer zones along streams allow hundreds of millions of tons of silt into the waterways each year. Unnecessary dams change water quality destroying not only habitat, but by discharging colder water they cause the loss of entire fish populations.

Some of these dangers facing our streams are the result of population growth. Other stream problems are caused by individuals that sacrifice clean water for the almighty dollar.

MAKING A DIFFERENCE

If we are to have quality streams, we must actively be involved in stream preservation. Around our country communities and, in some places, whole regions have banded together to improve stream water quality. In every case the improvement has been dramatic. Here in Arkansas we take for granted our abundance of high quality water. However, if we don't protect our waterways, our Natural States streams will some day be only a fond memory.

ENVIRONMENTAL NOTE

A few columns ago, I recommended a government program to help your city with its tree planting. Well forget that. This program has been clearcut by Herr Gingrich and his minions. This matching grant program resulted in the planting of thousands of street trees. It's too bad it's gone, especially when you consider that for every city tree planted, five are cut down. Some programs are worth keeping. This one certainly was.

Richard Mason is former Chairman of the P. C. & E. Board of Commissioners and past President of the Arkansas Wildlife Federation.

QUARTERLY COMMENT

SPRING, 1995

U.S. TRUST COMPANY OF TEXAS, N.A.

TO OUR FRIENDS:

In the last issue we said that we looked forward to seeing how things would play out in the new Republican-controlled Congress. Progress has certainly been made in enacting some parts of the Contract With America; however, Speaker Gingrich seems to have trouble adapting to his new role. When at his best, he can be a statesman, but he too often slips into the persona of his prior role as a backbencher. Mom Gingrich's quote of Newtie on the subject of the First Lady created a firestorm and perhaps caused as much heat for Connie Chung as for Mr. G. The class act of the day was Mrs. Clinton's response when she invited Mom and son to come by for a spot of tea. As the accompanying cartoon implies, all seems to be patched up ... at least for now.

Our thanks to Jimmy Margulis and the North America Syndicate for this one.

With this first edition of 1995, the new year has gotten off to a reasonably good start. The economy still seems to be doing well, but the most recent uptick in unemployment figures suggests that the latest 50 basis point hike in the Federal Funds rate may have been unnecessary. We subscribe to the Fed's mission of maintaining a stable price environment; however, we would like to see more time given in order to observe the results of the significant interest rate increases in 1994 which the economy must absorb. Further, the collapse of the peso and accompanying sharp declines in many foreign financial markets



Jimmy Margulis/North America Syndicate

suggest that an interest rate increase should have been at least postponed. To err is human, and the Fed should not try to delicately fine-tune the economy. Past attempts at bringing about a soft landing have missed the mark with disastrous, recessionary results. In the soft landing analogy which is often used, one thinks of a plane coming in to a smooth landing strip in good weather with

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- Health Care Plan Out; Health Care Stocks In
- A National Spendthrift Trust

OVER

many opportunities to make corrections for the multitude of variables involved. Rather it is more like landing on an aircraft carrier where the slightest miss means that the plane and crew go into the drink. The consequences of being wrong are so great that it is more important to err on the side of moderation than on overrestraint.

Regular readers of *Quarterly Comment* are aware of our willingness to take a strong, sometimes controversial, stand. The investment business is all about making a decision after considering the alternatives. Similarly, as the name of this newsletter implies, we attempt to comment on issues which we think are of interest to our readers, and the word *Comment* implies that an opinion or viewpoint will be expressed. We recognize that, in so doing, not everyone will agree. We have always encouraged those in disagreement to send us their views. One reader took issue with some of our comments about the Clinton administration in the last issue and sent in the letter that follows. We welcome this and would like to receive more. ■

A READER RESPONDS

The following is a letter written to us by one of our readers. It is being reprinted with the permission of the author and remains intact without editing.

Richard Mason December 2, 1994

I would like to recommend the *Quarterly Comment* of U.S. Trust change its name.

Why not call it the Republican *Quarterly Comment*? I receive comments directly from the Republican party that are less biased than your newsletter.

I happen to believe President Clinton has done an excellent job. He has accomplished more in his first two years in office than any President in the last 30 years, with the exception of L.B.J.

The economy is humming along, inflation is still down, the deficit increase is dropping, and we aren't seeing Americans killed in some stupid Republican police action.

I am sure some of your readers feel the same as I do. Why don't you stay away from politics and report on the economy.

By the way, if your Trust Department is like most banks, you will find a whole lot more of your assets were accumulated under Democrats than Republicans.

As always, we appreciate and welcome responses and comments from our readers. ■

THINGS TO CONSIDER WHEN PASSING THE TORCH

The Family Business is often the source of pride and family identity. Whether the generation in charge is the first or the fifth, certain aspects of a family business distinguish it from any other business. Family dynamics and business politics usually weave together so that the lines between family member and business partner become blurred. The usually distinct tasks of management succession planning and ownership transfer are intimately related in the family firm. The question arises, "Why should I trouble myself with planning for the next generation when I have enough to do running my business? Besides, I have a will and my spouse gets everything."

If you are a member of the third or fourth generation to run the family business, then you've done a few laps around the pool already. You have seen the importance of planning the transition from one generation to the next. Learn from and improve upon your ancestors' example. The founding generation, however, is just getting its feet wet and has yet to experience the transition of ownership and management to another generation. It is especially important for this generation to preserve their "vision" and pass it on intact.

Before choosing on a strategy for transferring the family business, it is important to take the time to reflect upon what your ultimate goals are.