

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Harold Ickes to POTUS re: Penn & Schoen Associates, Inc. (1 page)	03/03/1995	Personal Misfile
002. memo	Ickes to POTUS and VPOTUS re: Revised '96 Proposed Fundraising Plan (8 pages)	03/25/1995	Personal Misfile

COLLECTION:

Clinton Presidential Records
Staff Secretary
John Podesta (Chron Files)
OA/Box Number: 5952

FOLDER TITLE:

April 1-8, 1995 [2]

2018-0662-S

rs3123

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



04/04/95

John,

Send to Dorskind for reply (w/cc to scheduling)
???

sew

cc TO MARCIA HARE





STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON 25305

95 APR 14 P7:00

March 26, 1995

GASTON CAPERTON
GOVERNOR

The Honorable Bill Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20050

Dear Mr. President:

I am very pleased to inform you that in the recently concluded legislative session, West Virginia passed comprehensive reform for higher education. Our reform package addresses many of the issues dealt with in the Southern Regional Education Board report, "Pink Slips on Green Backs." We are the first state to pass this type of legislation since the release of this important report.

As you know, one of the key elements of this effort is to allow community colleges to be more responsive to the needs of business and industry by providing education and training to help in job creation.

It would be a great honor for you to visit our state. I can think of no better way to emphasize the importance of education and this program than to have you visit a West Virginia community college.

I hope your schedule will permit a visit to West Virginia in the near future. I look forward to hearing from you soon.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gaston Caperton".

Gaston Caperton
Governor

GC/ss

SPECIAL SCHEDULING REQUESTS
HONORARY CHAIR, HONORARY PATRON, HONORARY MEMBERSHIP

Today's Date: April 5, 1995

95 APR 5 ~~12:54~~
10:45a

Date of Request: 3/20/1995
Request for: POTUS/FLOTUS
Type of Request: Honorary Co-Chairs of Honorary Committee
Requestor Name: Ms. Susan Henshaw Jones
Title: President and Director
Organization: National Building Museum
401 F Street, N.W.
Washington, D.C. 20001
Contact Tel. #: 202/272-2448
Event Date: 6/07/1995
Event Description: Gala

Notes: The National Building Museum will present Mrs. Lyndon Baines Johnson with the 1995 Honor Award. The President accepted for a 1994 gala which was postponed because of a labor dispute and regretted a request for a second gala. The group claims that Presidents Ford, Reagan, and Bush and their wives have already agreed to join the Honorary Committee. The group seeks an answer by Friday, April 7.

Recommendations:

MW _____

JP _____

EB _____

YES

THE PRESIDENT HAS SEEN

4-4-95

95 APR 4 AM : 21

3 April 1995

MEMORANDUM TO THE PRESIDENT
THE VICE PRESIDENT
LEON PANETTA
MAGGIE WILLIAMS

FROM: Harold Ickes *HI*
SUBJECT: Democratic Convention

By my 11 March 1995 memorandum to all of you, to which all have responded, I indicated there was considerable debate about whether to have a 3 day or a 4 day Democratic Convention in August of 1996. Responding to the President's question, Kevin O'Keefe is in favor of a 3 day convention as, I think Leon is. Jack Quinn questions why we would want to give up a 4th day of free coverage.

Given the division of opinion, I suggest that we schedule a meeting on this along with Don Fowler, Chris Dodd and Debra DeLee so we can reach an agreement in the next couple of weeks.

I will undertake to set up the meeting.

ag

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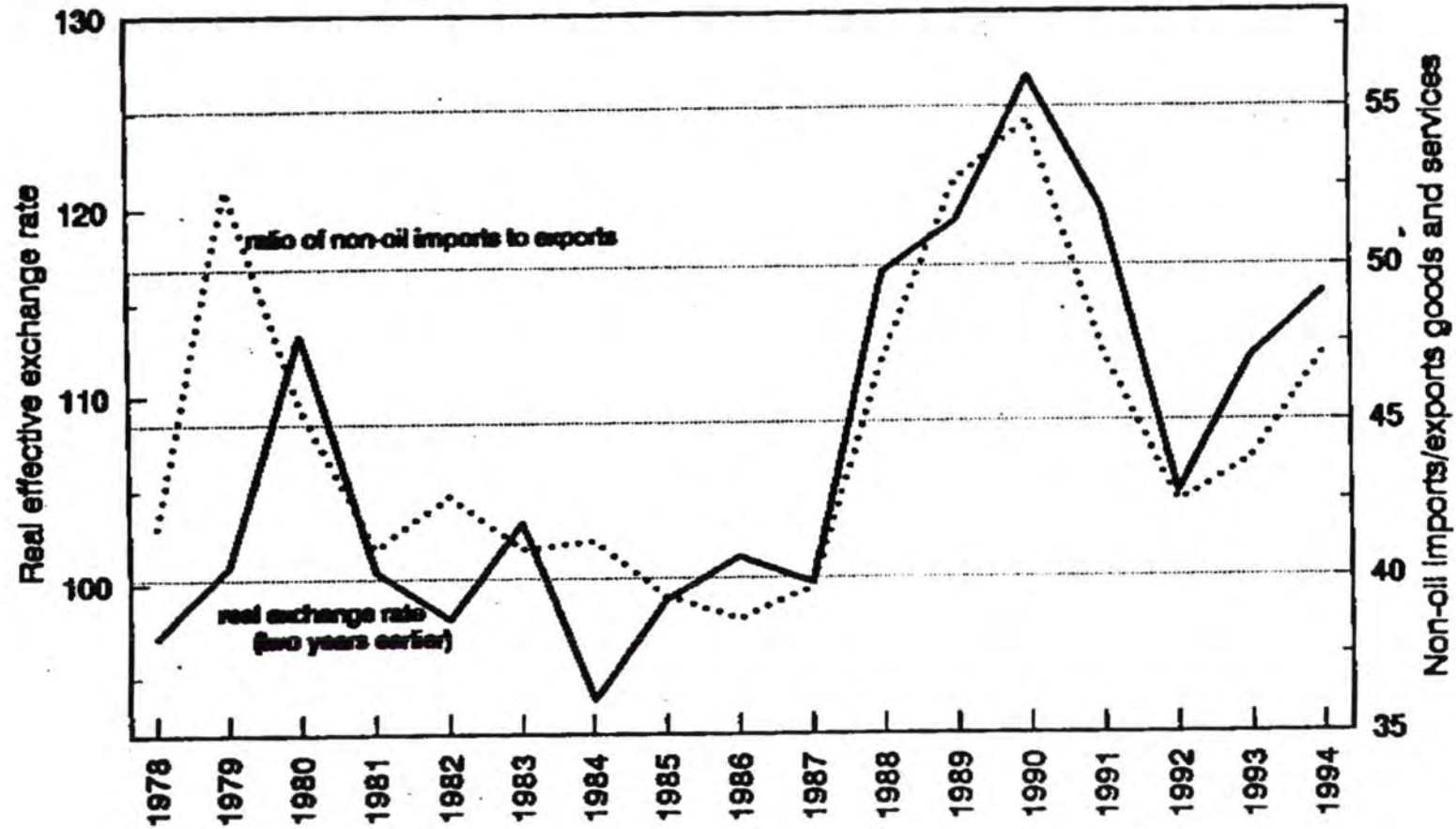
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THE PRESIDENT HAS SEEN
4-4-95

you said 2. draw
TOUO-Fig-1-B

Japan's Trade Balance and the Yen



Source: IFS

THE WHITE HOUSE

WASHINGTON

April 4, 1995

Ab --

Not to be a broken record on the subject of Utah judicial vacancies, but I have another good word to put in -- this time for David Watkiss, another Harvard Law School classmate of mine who, as it happens, is Elizabeth Dunning's husband. (Elizabeth was the District Court candidate whom I wrote you a note about a month or two ago.)

David's interest is in the 10th Circuit. He is exceedingly able -- an ex-Law Review editor who was one of the smartest guys in my class. He's 43 or so now and is a gifted, humane, intellectual lawyer who, if given the chance, would make a real contribution. He is also a Democrat, but one who would, I expect, pass muster with Senator Hatch.

I expect that you have already been contacted about David, and have received his resume, but if you need that or anything else from me, let me know.


Todd Stern

cc: Vicki Radd

104/529

REVISEDTHE WHITE HOUSE
WASHINGTON

95 APR 3 10:11

April 1, 1995

Memorandum for the President

From: George Stephanopoulos
Christopher Edley, Jr.THE PRESIDENT HAS SEEN
4/4/95

Re: Affirmative Action Review

Handwritten notes:

- Good
- The USA Today
- Send with
- Walter Rader

The fact-gathering portion of the Review, or Phase I, has made substantial progress. Attached is a preliminary draft of the Executive Summary, based on several volumes of information developed by the Review Team and the key agencies. The purpose of Phase I has been to describe the government's programs and review what is known about their effects. This past week, we began the more evaluative and prescriptive work of Phase II, with an intensive series of interagency meetings and further discussions with members of the Cabinet.

This preliminary draft is deficient in two key respects, both of which we plan to remedy in the coming week:

- The evidence accumulated on effects is limited to what is readily available, and *further limited*, perhaps, by some reluctance on the part of the agencies to be fully candid about such problems as resentment or overly rigid administration of goals. We have posed a number of follow up questions to the agencies.
- Although we reviewed IG, GAO and Congressional criticisms of the various programs, we have not systematically canvassed outside critiques by prominent opponents of these efforts.

Meanwhile, we continue to meet on the policy and thematic issues in Phase II. First, we are preparing a short paper for you presenting a half dozen current examples -- including *Piscataway*, the Chicago Police Department, and U.C. Berkeley admissions -- together with some brief point/counterpoint analysis of each. We believe that wrestling with these examples will sharpen the choices about basic principles and clarify how those principles might be applied to evaluate the dozens of possible programmatic changes we have already identified for our continuing analysis.

Second, anticipating that guidance from you, we have begun work on a policy memorandum with a combination of broad and particular "reform" ideas. These ideas will ultimately be the source of concrete examples of "what works and what must change" for your speech, as well as the elements of a package, if you choose to announce one.

Draft April 2, 1995

**AFFIRMATIVE ACTION REVIEW
OUTLINE OF THE EXECUTIVE SUMMARY**

1. Introduction and Policy To Date
 - 1.1 Purposes of the Review
 - 1.2 The Clinton Policy Record.
 - 1.3 Previous Statements by the President
2. A Framework for Thinking about Federal Affirmative Action Efforts
 - 2.1 A Definitional Preface.
 - 2.2 An Initial Taxonomy
 - 2.3 Affirmative Action: A (Very) Brief Survey of the Arguments
 - 2.4 Side Effects: A Closer Look at White Male Resentment
3. Effects of Anti-discrimination & Affirmative Action Efforts:
 - 3.1 Theoretical Framework for Evaluating Economic Impact of Affirmative Action
 - 3.2 Review of the Empirical Literature, In Summary
4. Federal Procurement Policies & Practices: Summary Discussion
 - 4.1 Overview
 - 4.2 Policies & Practices
 - 4.3 Performance & Effects
 - 4.4 Evaluations & Proposed Reforms
5. Office of Federal Contract Compliance Programs: Summary Discussion
 - 5.1 Concepts & Principles
 - 5.2 Policies & Practices
 - 5.3 Performance & Effects
6. Education and HHS Policies & Practices: Summary Discussion
 - 6.1 Overview
 - 6.2 Policies & Practices.
 - 6.3 Performance & Effects
7. Federal Civilian Employment Affirmative Action
 - 7.1 History and Results
 - 7.2 Summary Profiles for Selected Agencies
 - 7.3 General Comments
8. Affirmative Action in the Military: Summary Discussion
 - 8.1 Concepts & Principles
 - 8.2 Policies & Practices
 - 8.3 Performance & Effects
 - 8.4 Implications
9. Other Federal Policies: The FCC & the RTC
 - 9.1 Overview
 - 9.2 Policies & Practices
 - 9.3 Performance & Effects

draft: 4/2/95

9.4 Evaluations & Proposed Reforms

1. Introduction and Policy To Date

1.1 Purposes of the Review

The President has directed us to review the Federal government's affirmative action programs, broadly defined, asking the following questions:

- **Descriptions.** What kinds of programs and initiatives are now in place, and how are they designed?
- **Performance.** What is known about their effects -- benefits and costs, direct and indirect, intended and unintended -- both to the intended beneficiaries and to others?

The Review Team has completed preliminary work on this fact-gathering assignment, and this document summarizes the several volumes of material developed by the Team and several agencies. Our goal has been to provide the basic information needed to (1) address the question of "What works and what doesn't," and to (2) formulate appropriate options for strengthening, modifying or eliminating various programs, and for shaping additional initiatives to expand opportunities and combat discrimination. That work is now underway in a separate process.

Speaking broadly, there are scores of Federal affirmative action measures, ranging from the hortatory regulations which command outreach efforts by agency grant-makers, to numerical procurement set-asides. The Review Team has not attempted to create a comprehensive inventory of programs which in some way use race, sex or disability as a factor for decisionmaking. How one defines a "program" -- a statute, a provision of a statute, a clause in a regulation, an administrative initiative, each instance of a government-wide mandate, an enforcement policy based on judicial precedent -- is inherently arbitrary, and the difficulty is compounded by disagreement over the meanings of "affirmative action" and "preference." The Congressional Research Service list was in some respects overinclusive, but in other respects perhaps underinclusive. For example, CRS identified eight programs at HHS, but HHS staff using another methodology identified over three dozen, including certain kinds of targeted biomedical research. More useful than a debatable inventory, we hope, is a conceptual framework or taxonomy, with examples to illustrate the variations in program design and consequences. This Executive Summary is structured with that approach in mind.

1.2 The Clinton Policy Record.

We do not write on a clean slate. This Administration has articulated its policy positions on the basic issue in several key settings, including: litigation, minority scholarships, targeted health services, mortgage lending, and SBA business lending.

1.2.1 Litigation¹

The Supreme Court has consistently rejected the argument that the Constitution is colorblind. Consideration of race or sex is permissible, under both the Constitution and Title VII, within certain parameters. Embracing and enforcing those holdings, the Department of Justice has supported affirmative action plans which do not compromise valid qualifications, and which are flexible, realistic, reviewable and fair:

- race, national origin or gender is one among several factors considered;
- relevant and valid qualifications are not compromised;
- numbers used, if any, are genuine goals rather than straightjackets or "quotas," and reflect the relevant pool of candidates;
- timetables, if any, are reasonable and there is review of the continuing value of the plan at appropriate intervals; and
- the vested rights of nonbeneficiaries are respected.

For court-ordered relief and consent decrees, the test is "persistent or egregious discrimination, or where necessary to dissipate the lingering effects of pervasive discrimination."² The preference need not be limited to *actual victims*, but it cannot be ordered simply to create a racially balanced workforce and must be narrowly tailored to fit the nature of the violation it seeks to correct.

To test "narrow tailoring" of court-ordered race-conscious action, courts consider the following factors: (1) the necessity of the relief and the efficacy of alternative remedies; (2) the flexibility and duration of the remedy, including a waiver provision; (3) the impact on third parties; and (4) the relationship between any numerical goals and the relevant labor market. Specifically, courts have been concerned that measures be contingent on the availability of qualified candidates, and that preferences not operate as an absolute bar to the advancement of non-beneficiaries.

¹ Much of this subsection is adapted from testimony by Assistant Attorney General Deval Patrick, before the House Judiciary Subcommittee on Courts and the Administration of Justice, on March 24, 1995.

² *Local 28 of Sheet Metal Workers v. EEOC*, 478 U.S. 421, 445 (1986).

For voluntary affirmative action plans, the Supreme Court has found that there are least two permissible bases for job preferences: (1) to remedy a clear and convincing history of past discrimination by an employer or union,³ and (2) to cure a manifest imbalance in the employer's workforce⁴; the Court has stated that there may be other permissible bases.

If there is a permissible basis, a court will next consider whether the method utilized "unnecessarily trammel[s]" the interests of nonminorities or males. In this analysis, the factors are essentially the same as the factors considered by a court in determining whether a court-ordered plan is "narrowly tailored." Of special note, the Department of Justice has applied these principles to defend the race-based tie-breaking in *Piscataway*, and then quite recently in filing suit against Illinois State University.

In education, the case law is similar. The measure must be narrowly tailored, and the state interest must be compelling, such as the need for diversity or the need to remedy the lingering effects of past discrimination. The critical precedent is the holding in *Bakke* that a dual admissions system of "reserved slots" for minorities, undertaken voluntarily and without some finding of prior illegal discrimination, was impermissible; dicta indicated approval of more flexible voluntary approaches in which race was one of several factors used to attain a diverse student body.⁵

In government contracting and licensing, the Supreme Court has held that racial preferences enacted by state and local governments are subject to strict scrutiny, and must be narrowly tailored to accomplish a compelling government purpose. The Court has adopted a more deferential standard for reviewing race-conscious action by the Federal government, stating that a "benign" classification will pass constitutional scrutiny if it "serve[s] important governmental objectives and [is] substantially related to those objectives,"⁶ including objectives such as remedying past society-wide discrimination (as in contracting) or promoting diversity of ideas and information (as in FCC licensing). In authorizing such action, however, Congress (1) must not use impermissible stereotypes, (2) indicate that race-

³ *United Steelworkers of America v. Weber*, 443 U.S. 193 (1979).

⁴ *Johnson v. Transportation Agency*, 480 U.S. 616 (1987).

⁵ *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978). Recently, in *Podbersky*, the Fourth Circuit struck down the Banneker Scholarship program at the University of Maryland. The Department of Justice, as *amicus curiae*, argued that the limited number of race-based merit scholarships was an appropriate voluntary remedy for the lingering effects of the previously segregated higher education system in Maryland. The Fourth Circuit's opinion took issue with the factual predicate of lingering effects. (The period for filing a petition for *certiorari* has not yet passed.) *Podbersky v. Kirwan*, 38 F.3d 147 (4th Cir. 1994).

⁶ *J.A. Croson Co. v. City of Richmond*, 488 U.S. 469 (1989).

neutral alternatives have been evaluated, although not necessarily fully exhausted, (3) set forth temporal limitations on the use of race, and (4) ensure that the nonminorities are not unduly burdened.⁷

1.2.2 Education, Health and Housing

In early 1994, the Department of Education issued formal policy guidance concerning the application of antidiscrimination law to racially targeted scholarships. The guidelines require that such programs be

- for the purpose of achieving diversity or remedying past discrimination;
- narrowly tailored to achieve the intended purpose; and
- both temporary and periodically reviewed to ensure there is still a need.

In our proposed Health Security Act, two race-conscious provisions bear mention. First, the new National Council on Graduate Medical Education was to allocate specialty training slots to eligible institutions based on several factors, among them the institution's inclusion of trainees from minority groups underrepresented in the relevant medical specialty. Second, the Act authorized funding for training and similar investments to increase the number of underrepresented minority and disadvantaged persons in the health professions and in health professions faculty. Both provisions are comparable to programs in current law. (See section 6.2 of this document.)

In the housing arena, HUD has pressed a set of voluntary "affirmative marketing" agreements and "Best Practices Lending Agreements" with associations of real estate brokers, the National Association of Homebuilders, and the lending industry. Designed to promote opportunity and achieve voluntary compliance with the fair housing laws, the broker and homebuilder agreements have been periodically renewed since 1975 and 1976 respectively. The agreements with lenders is a new initiative, consisting of a set of jointly developed business protocols to improve the industry's performance in providing homeownership opportunities to minorities and low-income persons by eliminating barriers. Several agreements have been executed, with more anticipated.

1.2.3 SBA Guaranteed Business Loans

SBA's core business loan program, the 7(a) program, will insure roughly \$8 billion in loans this fiscal year. Over 18 months ago, SBA Administrator Erskine Bowles and Cassandra Pulley, his deputy, decided it was unacceptable that, for example, only 3% of their new insured lending in FY 1992 was to African American businesses — a conclusion they

⁷ Metro Broadcasting v. FCC, 497 U.S. 547 (1990).

reached after looking at each of SBA's districts and comparing SBA's participation rates with the numbers of minority and women-owned businesses in that area. Then they gave their district directors flexible loan production goals, plus two new tools to help meet those goals: the Low-Doc application to simplify dramatically the applicant's paperwork burden, and the Pre-Certification program to give minority and women entrepreneurs a chance to pre-qualify for insurance and then go to the banks and other lenders with that hurdle already behind them.

These tools did not offer reduced costs, lower credit standards, or anything other than assistance with preparing the loan application in a customer-friendly, supportive environment. The results are impressive:

- in FY 1994 over FY 1993, an 86 percent increase in loans to women and a 59 percent increase for minorities;
- even better annualized increases for FY 1995 thus far (as of March 21) -- 185 percent for women and 145 percent for minorities.

1.3 Previous Statements by the President

- *Press Conference, March 3, 1995 excerpts.*

"Our administration is against quotas and guaranteed results, and I have been throughout my public career. I have always been for trying to help people develop their capacities so they could fully participate.

"People mean different things when they use affirmative action. For example, I take it there is virtually no opposition to the affirmative action programs that are the most successful in our country, which are the ones adopted by the United States military, which have not resulted in people of inferior quality or ability getting preferential treatment, but have resulted in the intense effort to develop the capacities of everybody who joins the military so they can fully participate and contribute as much as possible, and has resulted in the most integrated institution in our society.

"I asked myself when this debate started, what have we done since I've been President that has most helped minorities. I would say that the things we have done that have most helped are things that have benefitted all people who needed them -- expanding the Head Start program; expanding the college loan program; expanding the earned income tax credit . . .

"I want to continue to fight discrimination where it exists. I want to continue to give people a chance to develop their capacities where they need help. I want us to emphasize need-

based programs where we can because they work better and have a bigger impact and generate broader support.

"I have always practiced [affirmative action]. But let's look at how I practiced it. Look at my appointments to the federal bench I have practiced affirmative action here the way that I perceive the United States military has practiced it. I have made an extra effort to look for qualified candidates who could serve with distinction and make a contribution to this country and make the federal bench reflective of the American population. I have not done it with any quota system in mind, and I have not guaranteed anybody a job.

"The question is -- here is the narrow question -- the question is: If we're not for quotas in results, and we are for developing everybody's capacities, what do we do with all those rules and regulations and laws that really are in a gray area, where there is, let's say, a minority scholarship or a contracting set-aside?

"I want to review those. I do not want to see us stop trying to develop the abilities of all Americans. I do not want to see us move away from trying to concentrate our resources in the areas of greatest need. . . . But I would say again, I think most minorities have been helped most by the programs in this country that have been targeted toward broad-based needs."

● *Remarks at College Press Forum, March 23, 1995 excerpts.*

"When there is evidence of past discrimination, as found in a court, then there can be more strenuous rules and regulations. Otherwise, there are actually a lot of strictures on how far affirmative action can go in giving preferences to people based on race or gender.

"It's not so long in the life of the country -- there were still courthouses on squares in county seats in my state that had segregated restrooms -- in my lifetime, when I was your age, in the mid-'60s, there were still older African Americans in my state who did not know that they could vote without buying a poll tax, because it had only been abolished by the Supreme Court a couple of years before. I can remember when there were no women in any number of jobs now where we take it for granted that women will be.

"The point I want to make is that we have made a lot of progress in this country. It has been inexact, it has been imperfect, there are still problems. We have made a lot of progress because we tried to take action to open up more opportunities to people without regard to their race or gender. And all of us, including white males, are better off because of that.

"If you look at the countries around the world today that are being absolutely ripped apart because of violence based on ethnic or religious or racial disputes -- the general point I want to make to you is that it is in everyone's interest to see that everybody gets the best chance to live up to the fullest of their abilities.

"I want to close with just two points. I'm against discrimination, I'm against giving people opportunities who are unqualified. But we all have an interest, including white males, in developing the capacities of all of us to relate to one another --because our economy will grow quicker, it'll be stronger, and in a global society, our diversity is our greatest asset. We must not let this debate be another cheap political wedge issue to divide the American electorate. We can use this to come together, and that's what we ought to do. . . .

"I've tried to do many things, but let me emphasize two or three. The first thing I've tried to do is to focus on initiatives that would provide opportunities to all Americans; that would unite us in getting more opportunities by, first of all in economic terms, but bringing down the deficit and expanding trade opportunities for American products, by working to create more jobs for the American people. . . . [I]n education, by increasing everything from Head Start programs to college loans, I have tried to offer broad-based opportunity.

"The second thing I've tried to do is to demonstrate to the American people that you could have diversity and excellence at the same time. That's what I just mentioned -- if you look at the people I've appointed to high public office, the people I've appointed to the federal judgeships, and the things that I have tried to do that I think are important.

"The third thing I have tried to do is to emphasize the importance of uniting the American people around shared values. That's what welfare reform is all about. That's what the attempts of the crime bill to clean up our streets from violence are all about. We should all be able to agree that we are going to pursue policies that promote family, that promote work, that strengthen communities, that look to the future.

"And I believe that the American people would think more in these terms -- I know that a lot of people are so bewildered by the changes and they feel so threatened by the changes going on today, that it's easy to lash out at someone who is different from us. But if we would focus on those three things I think we'd come together more."

● *Campaign Position Paper on the Arkansas Record (Excerpts)*

Equal Justice . . . No Quotas

- My administration is going to be committed to equal justice for all Americans. That means courts and agencies that treat everyone fairly, and judges and officials who reflect the diversity of this great country. We should reach out to everyone and make special efforts to see that those who have been left out before have a chance to get ahead now. But that does not include quotas or quota programs for any groups. I have always believed that each person should be judged on his or her own merit, free of bigotry and bias.

Minority Business Contracts

- For state contracts, I set a goal of 10% minority participation (similar to the federal law). Our Minority Business Development Division has worked to secure capital for minority businesses, identify government procurement opportunities and provide technical assistance for minority businesses -- all with no "set-asides" or quotas.

Race-Normed Tests

- Arkansas never conducted race-normed tests [adjusting scores based on a person's race] for state positions. At the urging of the Reagan Labor Department, we made race-normed tests available to a very small number of private employers who requested them. After the Reagan administration changed its position, I ended the distribution of such tests.

2. A Framework for Thinking about Federal Affirmative Action Efforts

In an effort to impose some order on the volumes of material collected thus far, this section provides some simplifying concepts and general observations.

2.1 A Definitional Preface.

"Affirmative action" is a troublesome term because it enjoys no clear and widely shared definition and, as a result, has been the subject of great miscommunication. We begin therefore with a definition:

For purposes of this review, "affirmative action" is any effort, beyond enforcement of the antidiscrimination laws, taken to expand opportunity for traditionally disadvantaged groups by using membership in that group as a consideration in decisionmaking of some kind.

This broad definition embraces more programs than many observers may have in mind in their comments, but it encompasses the range of actions some call "preferences," and enables us to provide the President with a full perspective on these issues.

2.2 An Initial Taxonomy

As the remainder of this report illustrates, the range and variety of federal affirmative action efforts is tremendous. Thus, it may be useful to consider one or more taxonomies of those efforts. Figure 1 offers one possible matrix. The horizontal dimension arrays various policy devices from the less intrusive to the more intrusive, while the vertical dimension arrays different spheres of activity—from those most closely to those less closely related to the federal government. In this array, examples of the eight categories of policies include:

Outreach & Hortatory Efforts:

- Various statutes encourage recipients of federal funds to use minority-owned and women-owned banks.
- DOL's Office of Federal Contract Compliance Programs (OFCCP) offers a periodic award for contractors manifesting superior affirmative-action practices.

Disclosure of Data:

- The Small Business Act (§502) requires SBA to monitor and report on agency contracting with small disadvantaged businesses (SDBs). This reporting can serve hortatory purposes and create a competitive dynamic among agencies.
- Last year, the Administration announced plans to publish the rates at which financial institutions made federally guaranteed loans to women- and minority-owned firms. This reporting can leverage public and intra-industry pressures to expand such lending.

Affirmative Action Plan Requirements:

- E.O. 11246 requires federal contractors to maintain affirmative action plans with, since President Nixon, goals and timetables.
- The Community Reinvestment Act (CRA) requires certain chartered financial institutions to conduct and record efforts to reach out to underserved communities.

Targeted Training & Investment Efforts:

- The Foreign Service maintains a minority internship program designed to increase minority participation in the Foreign Service.
- EPA maintains a Mentor/Protégé program to encourage prime contractors to develop relationships with small and disadvantaged businesses (SDBs).

Goals:

- The Small Business Act requires each agency to set goals for contracting with small businesses and SDBs; the SBA coordinates the effort. Additionally, Congress has in several instances legislated specific goals for certain agencies.
- SBA now sets goals administratively to increase participation by women and minorities in its core §7(a) loan guarantee program.

Market Advantages:

- In recent FCC auctions of certain licenses for personal communication services and interactive video, the Commission offered a 25% discount for women- and minority-owned businesses.
- Under its "§1207" authority, the Defense Department is permitted to provide a 10% bid preference, and to employ reduced-competition systems as a means of meeting their SDB contracting goals. Last year's procurement reform legislation extended this authority to non-DOD agencies as well.
- Surface Transportation Assistance Act, and now ISTEA, authorizes use of "subcontractor compensation" bonuses to prime contractors who use SDBs. This is the provision before the Supreme Court in *Adarand*.

"Soft" Set-Asides:

- ISTEA requires that 10% of contracts be allocated to disadvantaged business enterprises (DBEs), *except to extent that the Secretary determines otherwise*.
- The Airport & Airway Improvement Act requires same.

"Hard" Set-Asides:

- The Omnibus Diplomatic Security & Antiterrorism Act requires that a minimum of 10% of funds appropriated for diplomatic security projects be allocated to minority business enterprises.
- Certain education grants target 10-20% of funds on minorities.

Obviously, there is no uniquely useful taxonomy for thinking about these efforts. For example, one could categorize efforts based on their programmatic objectives, perhaps distinguishing programs focused on education and training (as more "investment-oriented"), from programs focused on employment and contracting (as more "income-oriented"), from programs focused on the assignment of scarce assets (as more "result" or reward-oriented), such as bank charters and spectrum licenses.

2.3 Affirmative Action: A (Very) Brief Survey of the Arguments

Many arguments "for" and "against" affirmative action have been offered by commentators; this section attempts to summarize, without evaluation, a few of the most frequently rehearsed.

The justifications for affirmative action include:

Remedial justifications emphasize that affirmative action is a corrective for acts or patterns of discrimination; in some cases the particular beneficiary need not demonstrate personal victimization; in some cases, including contracting set asides, the factual predicate may be a general legislative judgment (rather than judicial finding) concerning patterns of unlawful exclusion.

Compensatory justifications emphasize that affirmative action is a counterpoise to the lingering effects of past discrimination. Such effects include both (a) patterns of contemporary exclusion that are beyond the practical reach of antidiscrimination enforcement and (b) exclusion that may be lawful, such as cronyism in employment or contracting.

Systemic justifications emphasize the value of increasing diversity, for several public purposes, including maximizing the efficient use of human resources and bringing to firms, institutions, communities and the nation the economic and social rewards of greater inclusion.

Functional justifications emphasize that the performance of affirmative actions may be a useful defense against liability under the anti-discrimination laws.

The chief criticisms of affirmative action include:

Meritocratic criticisms emphasize that affirmative action undermines more "traditional" (and usually underspecified) notions of individual merit.

Alienation criticisms emphasize that affirmative action creates and fuels resentment among certain groups (most notably, white males).

Stigma-related criticisms emphasize that affirmative action taints its purported beneficiaries and devalues the accomplishments of those persons.

Systemic criticisms emphasize that affirmative action may aggravate rather than ameliorate racial and gender divisions.

Needless to say, much can be said about the validity of all these points in particular cases, and later stages of the Review will attempt to apply the arguments to the facts.

2.4 Side Effects: A Closer Look at White Male Resentment

The general dearth of information about the effects of government programs is a well-noted challenge to policymakers. (The Government Performance and Results Act, for example, was motivated by this; as have been the efforts in this Administration to spare critical program evaluation budgets from the severest budget reduction pressures. We have found that this problem of inadequate information seems especially serious regarding the side effects of affirmative action. There is a great deal of speculation and rhetoric, but virtually no systematic study. As matter of social science, it is a difficult question for investigation; simple "bean-counting" of contracts awarded or grants given sheds little light on the question.. Nonetheless, given the importance of this issue, some observations are in order.

To state the obvious, impressions and journalistic reports suggest that the level of resentment is rising. There are no good metrics for this sentiment, however. The number of reverse discrimination claims filed with the EEOC has remained in the 3% range, or less, for several years. A review of Federal court actions from 1990 through 1994 indicated that of over 3,000 reported cases, only between 1 and 3 percent involved a reverse discrimination claim or a challenge to an affirmative action plan. Many of the individual suits were unsuccessful, as courts found the plaintiff to have been less qualified for the job; courts invalidated six of 18 affirmative action plans or required employers to reexamine them in light of changed circumstances. (No OFCCP-administered plans were among the reported cases.)⁸

It is important to view this sentiment within a broad context; several factors may contribute to these reactions.

⁸ A. Blumrosen (DOL: 1995) (study commissioned by OFCCP, forthcoming).

A static or shrinking economy contributes to a zero-sum outlook on employment and other opportunities.

The post-industrial transition and the attendant corporate downsizing and reorganization aggravate apprehension about the future.

Increasing non-white immigration may fuel ugly racial sentiments, particular in tight or transitional economic times.

General skepticism toward government may direct resentment toward government programs such as affirmative action.

The confluence of these social and economic forces, it can be argued, fuels resentment among white males. Their reaction to this difficult situation can be seen not only in the criticisms of affirmative action, but also in other phenomena, such as California's Proposition 187, English-only initiatives, and what some describe as a "backlash" against women's efforts to secure equality.

Unfortunately, the problem of the "easy excuse" tends to magnify these negative sentiments. It is often easy for mid-level managers to cite affirmative action as a reason for an employment or allocational decision. Such an explanation allows the decisionmaker to disappoint the candidate without directly passing judgment on him. Similarly, some disappointed candidates may find it easier to blame affirmative action, even if such a program was not actually the reason for the adverse decision. Both of these dynamics mean that for each woman or non-white candidate selected under an affirmative action program, several non-selected candidates may feel resentment.

One sociological study analyzed how white males responded to negative employment decisions that they considered inappropriately based on race or gender. Based on interviews, that study characterized the responses in five categories: (1) acquiescence; (2) acquiescence/anger; (3) acquiescence/departure; (4) defiance/protest; and (5) circumvention. The study went on to discuss how these rejections negatively affected white males' perceptions of themselves, their companies, and the government.⁹

⁹ Frederick Lynch, *Invisible Victims* (Greenwood: 1989). This somewhat ideological study, does not offer direct policy suggestions. It includes useful anecdotal reports of resentment.

3. Effects of Anti-discrimination & Affirmative Action Efforts: Theory and Empirical Results

This Part focuses on the social scientific literature and offers a very brief summary of the current understanding of the effects of anti-discrimination and affirmative action efforts. A more detailed analysis is presented in Appendix A.

3.1 Theoretical Framework for Evaluating Economic Impact of Affirmative Action

Affirmative action is intended to ensure equality of opportunity and to reduce discrimination. Eliminating discrimination -- either against minorities and women or toward them -- improves the job-matching process and boosts efficiency. To the extent that affirmative action programs succeed in reducing overall discrimination, they increase productivity.

Affirmative action encompasses a wide variety of programs, from outreach to set-asides. In evaluating the economic impact of each specific program, it is crucial to take account of the following factors:

- **Networks and job ladders:** Women and minorities may not be as well connected to important social networks. These networks provide crucial information about available jobs. Through mentoring and "job ladders," they make job acquisition and promotion more likely. Expanding networks for minorities and women can ensure that workers are employed in the jobs in which they are most useful--rather than the ones which happen to be available within a circumscribed network. Affirmative action may be an effective tool in opening up such networks, a task which is not adequately addressed by anti-discrimination laws.
- **Role models:** If there are few top female executives, let alone minority female executives, it is less likely that a highly talented young minority female would undertake the additional training required to pursue such a career. Affirmative action is aimed at avoiding precisely such inefficient allocations of labor and underinvestment in skills.
- **Stigmatization:** Affirmative action programs may lead other workers to assume minorities or women obtained their jobs through preferences instead of merit, and thus to discount their ability. Such stigmatization generates costs in many of the same ways that traditional discrimination does.
- **Reverse Discrimination:** When pressure is exerted to hire more women and minorities, managers may view success in terms of being able to cite numbers hired rather than being

able to run efficient offices. This turns affirmative action into a quota system, despite its intent, and diverts attention away from the caliber of an employee's work and towards race or gender.

- **Backlash:** The perception of injury from affirmative action may be much broader than the reality of injury. And to the extent that social discord impedes economic performance, such backlash entails indirect efficiency losses as well.
- **Compliance costs:** Affirmative action programs impose paperwork and compliance costs. Affirmative action plans are often 300 pages long.

3.2 Review of the Empirical Literature, in Summary

Before the Civil Rights Act of 1964, the median black male worker earned only about 60% as much as the median white male worker. In 1993, the median black male earned 74% as much as the median white male. The male-female wage gap has also narrowed since the 1960s: median female earnings relative to median male earnings rose from about 60% during the 1960s to 72% in 1993. This part of the executive summary addresses four issues: (1) Why has there been an earnings gap between black and white workers, and what role did anti-discrimination legislation and affirmative action play in the reduction of that gap? (2) Why has there also been an earnings gap between men and women, and what role did government policies play in the reduction of that gap? (3) Is there any evidence that affirmative action boosted minority or female employment? (4) Is there still evidence of discrimination against blacks and women?

3.2.1 The Historical Background

A. Anti-discrimination Policy, the Black-White Earnings Gap, and Black Employment

- The ratio of the average black workers' earnings to the average white workers' earnings increased significantly in the 1940s, increased slightly if at all in the 1950s, increased significantly between 1960 and the mid 1970s, and declined somewhat since the late 1970s. (See figures 1 and 2 for the evidence since the 1960s.)
- There has not been a marked improvement in the employment-population rate of black workers relative to whites since the 1960s. If anything, there has been a deterioration in the relative employment-population rate.
- Education and work experience are the two most reliable predictors of a worker's earnings. Black workers historically have had much lower education than white workers. In addition, wages in the south (where a disproportionate number of blacks live) tend to be lower than wages in the north. Although these factors can account for about half of the earnings gap

between blacks and whites, there is still a significant remainder which is left unexplained. This remainder is often attributed to discrimination.

- Historically there have been great differences in the quality of education between black and white students. In South Carolina in 1920, for example, black students attended schools with class sizes twice those of white schools. Partly as a result of the Civil Rights Act of 1964, the Elementary and Secondary Education Act of 1965, and the *Green* decision, schools became increasingly integrated in the late 1960s. The improvement in the quality and quantity of education of black workers since the 1960s accounts for an estimated 20% of the gain in black workers' relative earnings.
- There is now near-unanimous consensus among economists that the set of government anti-discrimination programs beginning in 1964 contributed to the improved income of African Americans. Nevertheless, it is difficult to draw conclusions about which specific anti-discrimination programs were most effective. And it may well be that the programs collectively helped even though no single program was overwhelmingly effective by itself.

B. Anti-Discrimination Policy, the Male-Female Earnings Gap, and Female Employment

- The ratio of earnings of full-time, year-round female to male workers was roughly stable at around 60% from the early 1900s until the mid 1970s. Since the late 1970s, there has been an impressive rise in the relative earnings of women. In 1993, women who worked full-time, year-round earned 72% as much as men. After correcting for differences in education, experience, and other factors, the wage gap is reduced by about half (i.e., the corrected ratio is approximately 85%).
- An increase in women's education and work experience is a major cause of their improved economic position relative to men. The decline in higher-paying manufacturing jobs, which has driven down the earnings of less-skilled men, has also contributed to the narrowing of the male-female wage gap. Nevertheless, a substantial part of the improved earnings of women cannot be explained by these factors, and probably reflects a decline in discrimination.
- The role of anti-discrimination laws and affirmative action in this story is unclear. The major equal opportunity laws covering women were passed in the mid-1960s, and the most rapid growth in women's earnings and occupational status did not begin for another decade. Although the timing of the connection may not be very tight, government policy may still have had an impact by reducing discrimination—especially in education. The rapid growth in the number of female graduates from professional schools coincided with increased anti-discrimination efforts. This may have become manifest in the labor market only with a lag because of the time required to obtain degrees and training.

3.2.2 *The Effect of Affirmative Action on Minorities and Females*

- According to five academic studies, active enforcement by OFCCP during the 1970's caused government contractors to increase their hiring of minority workers, but the effect was relatively small. According to one study, for example, the employment share of black males in contractor firms increased from 5.8% in 1974 to 6.7% in 1980. In non-contractor firms, the black male share increased more modestly, from 5.3% to 5.9%. For white males, the employment share fell from 58.3% to 53.3% in contractor firms, and from 44.8% to 41.3% in non-contractor firms.
- The literature also finds that contractor establishments that underwent an OFCCP review in the 1970s subsequently had faster rates of black employment growth than contracting firms that did not have a review. The literature also finds that OFCCP had a significantly positive effect on the employment of black females, and a smaller but still positive effect on white females.
- Beyond studies comparing employment records of government contractors with non-government contractors, it is hard to separate out the effects of affirmative action from broader civil rights enforcement. Non-government contractors often took active steps to ensure diversity and compliance with equal opportunity laws, even though they were not covered by OFCCP. Also, the recruitment efforts of both contractors and non-contractors may have bid up the wages of minorities and women.
- In the 1980s, OFCCP enforcement was greatly weakened. For example, the number of compliance reviews was doubled without any increase in staff or budget; penalties were rarely assessed. Perhaps not surprisingly, available evidence suggests that OFCCP did not have a noticeable impact on the hiring of minority workers by contractor firms in the early and mid 1980s.
- Although the literature clearly shows that actively enforced affirmative action can lead to an increase in minority employment, it is less clear whether this employment represents a net gain or merely a shift from noncontractors to contractors.
- The extent to which affirmative action has expanded minority employment in skilled positions (occupational advancement) is debatable. The academic literature suggests that before 1974, minority employment growth in contractor firms was predominately in unskilled positions. Since 1974, there is evidence of modest occupational advance in contractor firms. But some researchers think this may be the result of biased reporting.
- Contractors do not appear to have lower productivity as a result of OFCCP. This suggests that OFCCP has not caused firms to hire or promote less qualified workers.

3.2.3 Evidence on Continuing Discrimination

- Discrimination is a continuing problem in the labor market. Perhaps the most convincing evidence comes from "audit" studies, in which white and minority (or male and female) job seekers are given similar resumes and sent to the same set of firms to apply for a job. These studies often find that employers are less likely to interview or offer a job to minority applicants and to female applicants.
- Less direct evidence on discrimination comes from comparisons of earnings of blacks and whites, or males and females. Even after adjusting for characteristics that affect earnings (such as years of education and work experience), these studies typically find that blacks and women are paid less than their white male counterparts. These studies are not uniformly accepted as providing evidence of discrimination, however, as some researchers have argued that the studies fail to adequately control for differences in average characteristics between the demographic groups.
- Other labor market indicators are suggestive of continuing discrimination. The black unemployment rate remains over twice the white unemployment rate. The Glass Ceiling Commission recently reported that 97% of senior managers in Fortune 1000 corporations are white males.
- In 1991, 32.7% of blacks lived in poverty, relative to 11.3% of whites and XX% of Hispanics. There are many explanatory factors, but the inescapable conclusion is that far too many Americans are excluded from the economic mainstream, and you are far more likely to carry this burden if you are a minority.

4. Federal Procurement Policies & Practices: Summary Discussion

This Part summarizes the Review Teams examination of affirmative procurement efforts at the Department of Defense, the Department of Transportation, and the Small Business Administration.

4.1 Overview

There are a web of programs designed to increase federal procurement and contracting with minority- and women-owned businesses. The largest of these efforts (measured in terms of their scope) are government-wide programs administered by the SBA. These efforts are complemented in some agencies by additional programs; these latter programs themselves can be quite large. This summary addresses both the government-wide and selected agency-specific efforts; the chart on the following page offers a side-by-side comparison of these efforts.

4.2 Policies & Practices

4.2.1 Government-wide Efforts

- **Goals:** Federal law establishes several goals for the distribution of federal procurement opportunities: 20% for small businesses; 5% for disadvantaged small businesses; and 5% for women-owned businesses. The SBA consults with each agency to set annual agency-level goals to ensure progress toward the overall goal. For contracts and firms above certain thresholds, the law requires subcontracting plans in furtherance of these goals.
- **Sole-source contracting:** Under the 8(a) program, small disadvantaged businesses (SDBs) can secure smaller contracts (usually less than \$3 million) without open competition. This "sole sourcing" is accomplished when an agency contracts with SBA which in turn subcontracts with the SDB.

To participate in the 8(a) program SBA must certify that a firm is controlled and operated by socially *and* economically disadvantaged persons. Persons from certain racial and ethnic groups are presumed to be socially disadvantaged. Persons are considered economically disadvantaged if they face "diminished capital and credit opportunities"—measured by asset and net-worth standards.

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- **Bid preferences:** The procurement reforms passed last year authorized government-wide use of the 10% bid preference employed by DOD (see below). Implementing regulations have not yet been finalized.

4.2.2. Agency-specific Efforts

- **Department of Defense:** In addition to participating in the goal-setting and 8(a) efforts, DOD has two additional efforts; these are significant because DOD is by far the largest federal procurer.
 - **SDB shelters or set-asides:** Contracting officers are authorized to **limit bidding** on a contract to small disadvantaged businesses (SDBs) if two or more such firms are potential bidders and the officer determines the prevailing bid will be within 10 percent of the fair market price.
 - **SDB bid preferences:** Whenever there is full and open competition and procurement is based on price and price factors alone, contracting officers **add 10 percent** to the price of *non-SDB* bidders, and then award the contract on the basis of the revised bids. (This is the "§ 1207" program. Although the statute merely makes this tool *available* to DOD as a means of achieving its contracting goals, the Department's procurement regulations actually mandate its use.)
- **Department of Transportation:** In addition to participating in the goal-setting and 8(a) efforts, DOT manages an additional effort to encourage business with minority- and women-owned firms through its grants to state and local entities.
 - **Subcontracting preferences:** In addition to setting goals for subcontracting with women- and minority-owned firms, DOT requires that grant recipients (usually state or local authorities) provide a **bonus payment** to contractors who attain certain levels of contracting with women- or minority-owned subcontractors. (This is the provision at issue before the Supreme Court in the *Adarand* case.)
- **Certification of eligibility** in these programs differs from the SBA certification in 8(a). In the DOD programs, the firms self-certify that they are qualified; in the DOT program, the state/local grant recipient is charged with certifying the subcontractor's status.

4.2.3 Complementary Programs: Technical & Other Assistance

A number of agencies maintain other programs to assist women- and minority-owned firms seeking procurement opportunities. These include:

- SBA maintains several programs that serve small businesses generally, by providing technical assistance, loan guarantees, and equity capital through SBICs.

- The Minority Business Development Administration (MBDA) at Commerce provides technical assistance and support for women- and minority-owned firms.
- Several agencies maintain "Mentor-Protege" programs which encourage majority firms to advise and nurture new and growing minority-owned firms by providing managerial and technical assistance.

4.3 Performance & Effects

Most of these efforts have been very successful in expanding procurement opportunities for women- and minority-owned firms.

- Between 1982 and 1991, the dollar volume of all contracts over \$25,000 increased by 24%. At the same time, contracts awarded to **women-owned firms increased by more than 200%**; contracts awarded to **minority-owned firms increased by more than 125%**.
- Agency-level data show similar trends: for example, between 1985 and 1994, contracting with small, disadvantaged businesses grew from **2.1% of DOD procurement to 5.5%**--an increase of more than \$3 billion.
- Given the shrinking size of the procurement pie, such increases may mean real decreases for non-SDB and male-owned firms. For example, while DOD's contracting with SDB's more than doubled, its contracting with **non-SDB firms fell by more than 20%**.
- Perhaps relatedly, these programs have also been the source of some controversy. As noted above, DOT's bonus program is currently the subject of constitutional challenge in the *Adarand* case.
- While the overall goals and levels of these programs are relative small (under 10-20%), it is important to scrutinize their effects in particular **geographic regions** and within **certain industries and subsectors**. There appears, for example, to be a tendency for agencies to concentrate their minority contracting in certain fields--such as construction--where there are a significant number of minority firms. While this makes operational sense, it also means that effective goals, set-asides, and preferences in some fields can be several times the overall goal. Indeed, there have been reports that in some regions and fields, **set-asides account for more than half of all procurements**. It seems likely that resentment of these programs is particularly high in these regions and fields.

4.4 Evaluations & Proposed Reforms

These programs have been the object of a number of studies; the most common criticisms and proposals include:

- Some observers emphasize the need to **rationalize and coordinate the web of federal programs** serving minority- and women-owned firms. For example, the US Commission on Minority Business has recommended the creation of an Administration for the Development of Historically Underutilized Businesses which would assume SBA's 8(a) responsibilities. A Commerce Department proposal in this area is included in the background materials.
- The SBA's Inspector General and others have recommended reform of several aspects of the 8(a) program, including:

- reform of the operational definition of "social disadvantage" to replace the presumption based on race and ethnicity;
- tightening the way "economic disadvantage" is defined to reduce use of the program by wealthy individuals;
- reducing the concentration of contracts among a small number of firms.

Last year--and again this year--SBA has proposed a complete overhaul of the 8(a) program. The reform is designed to focus assistance and encourage graduation from the program. A summary of that reform is included in the background materials.

- Other observers have emphasized **the need for a graduation requirement in the DOD and DOT programs**--much the same way that 8(a) has certain policies that require graduation after a certain period of time.
- Outside critics argue that a disproportionate share of SDB contracts are in the construction industry, threatening a ghettoization of minority contractors as well as a disproportionate burden on non-SDB competitors in that sector. Relatedly, there is anecdotal evidence that SDB contracts are sometimes concentrated regionally -- at particular military installations, for example -- with the same problematic effects. The data available to us do not substantiate these concerns, but we have requested additional information from DOD.

5. The Office of Federal Contract Compliance Programs (DOL): Summary Discussion

This Part offers a summary based in large part on materials prepared by the Department of Labor and subsequent discussions.

5.1 Concepts & Principles

OFCCP's primary responsibility is to implement and enforce several Executive Orders banning discrimination and establishing affirmative action requirements for federal contractors and subcontractors. While these policies have roots in the 1940s, the seminal requirements are E.O. 11246 (signed by President Johnson) and regulations promulgated pursuant to that order in 1970 under President Nixon. OFCCP requires goals for hiring and promoting women and minorities as part of the affirmative action program contractors are required to develop and/or implement; however, there are no preference or set-aside requirements.

5.2 Policies & Practices

- *Coverage:* With certain exceptions, E.O. 11246 applies to contractors and subcontractors with contracts of more than \$10,000 per year. In FY 1993, some 92,500 nonconstruction establishments and 100,000 construction establishments were covered. These establishments employed approximately 26 million people and received contracts of more than \$160 billion.
- *Affirmative Action Requirements:* OFCCP regulations impose different requirements on construction and nonconstruction firms.
 - Nonconstruction firms with 50 or more employees or contracts of more than \$50,000 must develop and maintain a **written affirmative action plan (AAP)**. The contractor keeps the AAP on file and carries it out; it is submitted to OFCCP only if the agency requests it for the purpose of conducting a compliance review. As part of its AAP, the contractor must conduct a workforce analysis of each job title, determine availability of women and minorities for each job group, and conduct a utilization analysis to determine whether women or minority group persons are "underutilized" in any job group. Based on these analyses, the contractor establishes goals to overcome the underutilization, and makes a good faith effort to achieve those goals.

- Construction firms are not required to maintain written AAPs, but must make **good faith efforts to meet demographic goals** informed by place-specific census data. OFCCP regulations expressly prohibit preferential hiring practices and the use of quotas.
- **Goals & Timetables:** The numerical goal-setting process in affirmative action planning is used to target and measure the effectiveness of affirmative action efforts to eradicate and prevent discrimination. The regulations specifically prohibit quota and preferential hiring and promotions under the guise of affirmative action numerical goals. *Numerical goals do not create set-asides* for specific groups, nor are they designed to achieve proportional representation or equal results. (Whether in practice they operate rigidly, or in instances illegally, is discussed below.)
- **Enforcement Procedures:** OFCCP undertakes **compliance reviews** for certain contractors flagged by a computer program as having below average participation rates for minorities or women. (In FY 1994, OFCCP conducted more than 4,000 such reviews.) If an establishment is found to comply with affirmative action requirements, OFCCP attempts to conciliate with the contractor; in a few cases, no agreement is reached and the case is referred for formal administrative enforcement.
- **Incentives:** OFCCP gives Exemplary Voluntary Efforts (EVE) awards to those companies who demonstrate significant achievement in equal opportunity and affirmative action.
- **Sanctions:** A contractor in violation of E.O. 11246 may have its contracts terminated or suspended, or be debarred. Such administrative actions are rare, and there is ample due process accorded the contractor before hand.

5.3 Performance & Effects

As noted in Part 3 of this document, OFCCP programs have been studied in some detail. During the 1970s, when enforcement was quite strong, the programs were found to increase the employment of minorities. (During the 1980s, enforcement -- and the effectiveness of the policies -- declined.) Most studies have found that OFCCP has had a less significant impact on hiring of minorities in skilled occupations. However, a number of limitations on the validity of the OFCCP evaluation studies have been raised. The available evidence indicates that productivity at contracting firms is unaffected by OFCCP. This suggests that OFCCP has not caused contracting firms to hire less qualified workers. Further, a recent study finds that exemplary affirmative action plans help a company's stock market values.

The OFCCP national office conducted a random survey of conciliation agreements (CA) obtained by the field in FY 1993 and FY 1994, and did not find any situations where the agency sought and obtained remedies outside the scope of OFCCP's authority. Further, during the review of the conciliation agreements OFCCP found an example of an OFCCP regional office requiring

corrective action by a contractor who had engaged in an employment practice that discriminated against males, both whites and minorities. OFCCP cited the contractor with a violation of Executive Order 11246 and required it to enter into an agreement providing relief to both white and minority victims.

Several studies were critical of the administrative aspects of the programs, such as the mechanisms for selection of contractors for review and the paperwork burdens on smaller contractors. Some groups have been critical of the length and detail of the AAPs. In part in response to this latter criticism, OFCCP plans to (i) significantly reduce the AAP paperwork requirements and (ii) initiate a summary format for the AAP that will enhance the targeting of reviews.

Finally, some have raised a concern that although AAPs as a formal matter are framed in terms of flexible goals, and although rigid quotas violate both OFCCP regulations and Title VII of the Civil Rights Act of 1964, in some cases employers actually implement the AAP goal with a rigidity making it tantamount to a quota. OFCCP has no data directly addressing this concern, but notes that reverse discrimination complaints, including objections to *de facto* quotas, are very rare in both OFCCP's administrative mechanism and in the usual employment discrimination processes at the EEOC and in the courts. The absence of litigation is not, of course, a complete answer, in as much as subtle discrimination -- reverse or otherwise -- can be difficult to detect and even more difficult to challenge. In the absence of more reliable data, we have asked the agency to provide relevant anecdotal information.

6. Education and HHS Policies & Practices: Summary Discussion

This Part offers a summary based in large part on materials prepared by the Department of Education (DOE) and the Department of Health and Human Services (HHS).

6.1 Overview

The majority of DOE's programs focus on improving education for populations with special educational needs -- principally, financial need. Some DOE resources, however, are targeted on the basis of race or gender; these include programs designed to increase the representation of minorities or women in certain professions or fields, support for institutions that have a high enrollment of racial and ethnic minorities, and a handful of programs open to all economically-disadvantaged individuals but which reserve a portion of program resources for minorities or women. The relevant programs administered by HHS also focus on education and training -- usually in the medical or natural sciences.

6.2 Policies & Practices.

6.2.1 *Programs to Increase Representation in Certain Fields*

The programs in this category take different forms; illustrative examples include:

- **Special Consideration for the Disadvantaged:** The Paul Douglas Teacher Scholarship Program, for example, allows states to make awards to graduates who pursue teaching careers; special consideration is given to students from disadvantaged backgrounds who are underrepresented in the teaching profession, such as racial or ethnic minorities.
- **Targeted DOE Programs:** Under the Faculty Development Fellowship Program, the Department provides grants to institutions of higher education that have a demonstrated record of enhancing the access to graduate education of individuals from underrepresented groups. These grants support faculty from these groups to enhance their professional development.

Similarly, the National Science Foundation administers programs designed to address underrepresentation of women and minorities in the fields of science, engineering, and mathematics.

- **Targeted HHS Programs:** NIH supports underrepresented minorities in research and education programs through a variety of targeted efforts. These include the Minority High School Research Apprenticeship Program, the National Minority Predoctoral Fellowship Program, and the Minority Clinical Associate Physician Program. Congress recently recognized the need for these programs, directing NIH to conduct its research programs to "provide for an increase in the number of women and individuals from disadvantaged backgrounds (including racial and ethnic minorities) in the fields of biomedical and behavioral research."

Similarly, several HHS programs administered by the Center for Public Health Services and the Health Resource and Services Administration provide educational support and fellowships for minority professionals.

6.2.2 Support for Institutions that Serve Minorities & Women

These efforts include:

- **Support for HBCUs:** Several DOE programs provide assistance to colleges and universities with a significant African-American student enrollment, including the 103 historically black colleges and universities ("HBCUs"). Funds for these programs may be used for a variety of purposes—including programs to establish development offices; strengthen physical, financial, and academic structures and resources; purchase telecommunications equipment; establish outreach programs; and help HBCUs gain access to private-sector financing.
- **Support for Hispanic-Serving Institutions:** DOE's Hispanic-Serving Institutions Program makes grants to institutions with an enrollment of at least 25% Hispanic students (of which 50% must be low-income, first generation college students and an additional 25% must be low-income or first generation college students) to enable these institutions to expand and improve their capacities to serve Hispanic and low-income students.

6.2.3 Set-asides in Programs Open to Larger Populations

As noted, DOE administers a handful of programs that are open to all individuals or to all economically-disadvantaged individuals but that set aside program resources for minorities or women.

- **The McNair Program:** This program provides disadvantaged college students with preparation for doctoral study. Two-thirds of the project participants, however, must be low-income and first-generation college students and the remaining third must be from an underrepresented group, including racial minorities.
- **The Adult Education Basic Grants Program:** This program provides grants to states to fund local programs of adult basic and secondary education based on need and resources

available. At least 10% of these funds are set aside for training of targeted groups, including minorities. The Department plans to propose to eliminate the set-aside for FY 1996.

- **Programs for Native Americans, Native Hawaiians, and Alaskan Natives:** For example, the Elementary and Secondary Education Act reserves program funds for Indian children served by schools operated and supported by the Department of Interior. The Goals 2000: Educate America, the Safe and Drug-Free Schools and Communities, and the School-to-Work Opportunities Acts also reserve program funds for Indian children.

6.2.4 Programs to Serve Special Needs

DOE also administers a number of major programs for individuals with special needs, including programs for individuals with physical disabilities and for individuals with limited proficiency in English.

- **IDEA:** The Individuals with Disabilities Education Act ensures that all children with disabilities have available to them appropriate public education designed to meet their unique needs. This is accomplished through formula grants to states, 75% of which are to education agencies, and competitive grants for research, training, demonstration, and technical assistance.
- **The Rehab Act:** The primary purposes of the Rehabilitation Act are to (1) provide vocational rehabilitation services to individuals with disabilities to prepare for gainful employment; (2) provide independent living services to individuals with severe disabilities to enhance their independence, productivity, and quality of life; (3) increase the number of qualified personnel who are trained to deliver rehabilitation services; and (4) conduct rehabilitation research.
- **Language-related Programs:** The Department also supports a number of programs targeted to students with a limited proficiency in English. These include the Bilingual Education Act (which is dedicated to expanding the capacity of school districts to educate these students) and the Migrant Education Program (which provides funds for States for supplementary education services for the children of migrant agricultural workers and fishermen.)

6.2.5 Efforts to Ensure Access

These efforts include:

- **WEEA:** The Women's Educational Equity Act Program promotes gender equity in education by making grants and awarding contracts to educational agencies for research and development of strategies to support gender equity and for projects that implement effective gender equity policies and programs in schools.

- **Advisory Activities:** Many DOE programs establish advisory or governing boards, councils, or panels and in many cases, the membership of these entities is specified (or diversity is encouraged) based on race, gender, or disability. For example, Goals 2000 requires that local improvement plans be developed by a panel that is "representative of the diversity of students and the community with regard to race, language, ethnicity, gender, disability, and socioeconomic characteristics."

6.3 Performance & Effects

Relatively few of these programs have been studied or reviewed; those DOE programs that have been reviewed include:

- Since their creation in 1965, the programs supporting HBCUs have never been thoroughly evaluated; however, in FY 1995, Congress appropriated \$1 million to evaluate support for HBCUs.
- The IDEA program has been closely monitored. These evaluations found that over the past five years, the dropout rate for children with disabilities has steadily declined and the graduation rate has shown a general upward trend. The number of children served and the number of teachers serving these children have also increased.
- In 1994, the GAO issued a formal evaluation of the WEEA. Its primary finding was that the WEEA program supported direct services to a small number of girls and women; the GAO recommended that program resources be devoted to eliminating systematic inequitable policies and practices in schools.

7. Federal Civilian Employment Affirmative Action

7.1 History and Results

In 1969, President Nixon issued an executive order that required the Federal agencies to establish Federal Affirmative Employment Programs to foster equal employment opportunity for minorities and women. These programs have had a statutory basis since 1972.

Since 1978, the Equal Employment Opportunity Commission (EEOC) has had advisory authority for these affirmative employment functions, including the responsibility to review and approve annual equal opportunity plans submitted by each agency. (EEOC evaluates the work of the agencies, but cannot require them to change their mode of operation.) EEOC has implemented the various federal affirmative employment program requirements through a series of Management Directives ("MDs"). The first, MD-707, issued in 1981, instructed Federal agencies to submit equal employment plans for a five-year period. It required each agency to determine whether minorities and women were underrepresented in various employment categories and to set annual goals for underrepresented groups in categories where vacancies were expected.

In 1987, EEOC issued MD-714, which **eliminated** the requirement that agencies set goals. MD-714 placed greater emphasis on the identification and removal of barriers to the advancement of women and minorities. It instructed agencies to devise flexible approaches to improving the representation of women and minorities in their workforces.

In 1993 and 1994, EEOC staff drafted MD-715 to succeed MD-714 and circulated it to agencies for comment. Among other things, the draft Directive proposes (i) consolidating all Directives into one; (ii) reducing reporting requirements; (iii) requiring agency heads to hold senior and program managers accountable for the accomplishment of agency objectives through their actions and performance appraisals; (iv) eliminating any requirement for the use of goals; and (v) requiring the reporting of discharge or separation rates for minorities, women, and people with disabilities, to allow greater emphasis of retention trends.

EEOC has found no single answer to the challenge of overcoming barriers to minorities, women, and people with disabilities in the Federal government. Agencies have unique workforces, and barriers to equal employment opportunity vary from one organization to another. Successes are gradual in nature and depend considerably on the good will engendered in the Federal executives who manage these programs.

In the Federal agencies, between 1982 and 1993 overall (white collar and blue collar) and white collar employment of women and every minority group has steadily increased. White women and Hispanics are the only groups whose employment in the overall Federal workforce and in

white collar ranks remains below their availability in the overall and white collar civilian labor force. Minorities and women continue to be disproportionately employed in clerical jobs and in the lower grade levels of other occupational series. In FY 1993, for example, 85.98% of clerical jobs were held by women and 39.48% by minorities, while their employment in the Professional workforce was 34.57% and 18.08%, respectively.

While employment of women and minorities in the Federal workforce has increased, their representation falls as grade level rises. In FY 1993, women comprised 72.90% and minorities 38.15% of employees in grades 1-8, while 16.16% of GS/GM-15 employees were women and 12.04% were minorities. In the same year, 13.40% of Senior Executive Service (SES) employees were women and 8.5% were minorities.

For purposes of this review, EEOC selected and reviewed a cross-section of six agencies that had demonstrated creative ways of addressing equal employment opportunity (ranging in size and variety of job categories): Department of the Navy, Smithsonian Institution, Defense Intelligence Agency, NASA, Pension Benefit Guaranty Corporation, and Health and Human Services. The review elicited the following observations:

- Each agency described an aggressive affirmative employment program -- including targeting sources, requiring recruiters to consider and report, management awareness/accountability, external and internal communications strategies -- that had achieved limited success rates.
- Available data is limited to the numbers and percentages of minorities and women employed by grade level by year; no systematic data exists about effects on bystanders, about the nature or resolution of complaints, or on the actual operation of minority preferences in hiring and promotion.
- Several agencies expressed the belief that agency educational efforts had ameliorated white-male concerns (which are palpable in each agency), but this belief was purely anecdotal (would the truly disgruntled attend such voluntary town-hall meetings?).
- Agencies subject to downsizing faced especial pressures that had reduced gains.
- Those agencies with high percentages of professional or technical jobs attributed their limited progress in minority hiring and promotion in higher grades to competition with the private sector for a limited labor pool.
- Several agencies measured carefully the number of women and minority participants in their SES Candidate Development Programs.

7.2 Summary Profiles for Selected Agencies

7.2.1 Department of the Navy (DON)

The Secretary of the Navy has directed action on eight initiatives to improve the civilian Equal Employment Opportunity program. These include centrally coordinated recruitment programs at selected Historically Black Colleges and Universities and minority institutions; expanded intern and cooperative education programs; new approaches to the development of employees in the pipeline with particular focus on minorities and women in grades 9 through 15; special recruitment plans for Senior Executive Service positions; and alternative complaint resolution efforts.

Continuous downsizing and restructuring of the DON have significantly reduced intake and promotion opportunities. DON had made some gains in moving women and minorities into the higher grade levels of GS 13-15 and SES in the last two years but downsizing eliminated many of these gains. The major portion of senior-level white collar positions are in science and engineering. Until the labor market increases significantly, DON expects to continue to compete unsuccessfully with the private sector within a limited market.

7.2.2 Pension Benefit Guaranty Corporation (PBGC)

To improve minority and women recruitment, PBGC has (i) contacted viable recruitment sources and required the recruiting staff to discuss with each selecting official the use of those sources each time a vacancy occurs; (ii) issued quarterly EEO statistics to each office as a reminder of its status versus that of the entire PBGC; and (iii) established a Workforce Diversity Board.

According to EEOC, PBGC has a good record for employing blacks at all grade levels and in Professional and Administrative categories, an average but improving record for employing women at all grade levels and a good record for employing women in the Professional occupations. According to PBGC, the number of women and minorities promoted during the last year was at least 80 percent or more of the percent of men and nonminorities promoted, particularly above grade GS-9.

7.2.3 Defense Intelligence Agency (DIA)

DIA implemented a comprehensive program that includes affirmative employment activities within a larger diversity management program. The program includes diversity management, training, affirmative employment plans and programs, adjudication of complaints, deaf and disabled programs, special recruitment, selection reviews, and communications.

According to EEOC, between 1988 and 1993 the representation of women in the Professional, Administrative, Technical, Others and Blue Collar work force increased. The representation of women in the Clerical category decreased. Blacks are fully represented in all of the above categories, while Hispanics, Asian Americans/Pacific Islanders and American Indians/Alaskan Natives either remained far below Blacks and women or have shown no progress. DIA's

representation of minorities and women is concentrated the lower grade levels. Overall, DIA's objectives to increase the number of women and minorities in the upper grade levels, SES and major occupations have not been accomplished during the duration of the multi-year plan, but there has been some improvement.

7.2.4 Smithsonian

The Smithsonian's Affirmative Employment Program consists of five key components: the diversity planning process, the monitoring and assessment system, education and outreach initiatives, recognition/awards and accomplishment reports. Women and minorities are still underrepresented in all job categories.

A ten year trend analysis reveals that the Smithsonian has experienced a decrease in the total work force representation for Hispanics, Asian Americans/Pacific Islanders, and American Indians/Alaskan Natives. Women made the greatest gains, going from 32.63% to 40.38%. The 1993 SES representation places women at 26.8% and Blacks at 8.7%.

7.2.5 Health and Human Services (HHS)

At HHS, developmental programs have been a main focus of affirmative employment efforts. For example, HHS ensured that women and minorities were well-represented in its most recent Senior Executive Service Candidate Development Program. More than half of the candidates in the class were women and 29% of the candidates were minorities.

HHS uses a "top-down approach" to affirmative action, believing that a diverse top-echelon will drive these practices down through all levels of the organization. In support of the top-down approach, HHS gives responsibility for furthering affirmative employment to Executive Resources Boards. These Boards, composed of senior management officials, provide advice to the head of the operating division on all SES personnel actions. Also, managers are held accountable for affirmative employment through their performance plans.

7.2.6 National Aeronautics and Space Administration (NASA)

The centerpiece and newest initiative in NASA's Equal Opportunity Program is the Equal Opportunity and Diversity Management Plan which was endorsed by the Administrator and all senior officials of NASA in September 1994. The Plan, to increase the diversity of the workforce while reducing its size, completely redesigns and strengthens the affirmative employment program by establishing voluntary goals and timetables based on in-depth analysis of underrepresentation compared to the relevant civilian labor force statistics.

NASA's EEO profile is worse than that of most Federal agencies; however, it has improved considerably in almost all areas over the last decade. Women and minorities tend to be concentrated in the lower grade levels. NASA states that they cannot compete with the private

sector when recruiting for the highly skilled Professional jobs that comprise the majority of their work force (scientist and engineer positions comprise 76% of the workforce). In NASA, 82% of SES positions are held by white males. White males comprise 37% of the population but hold 82% of senior management and leadership positions.

7.3 General Comments

Our discussions with several agencies indicate that equal employment opportunity is widely viewed as a critical priority on the management agenda, and continuing attention has produced considerable commitment to the issue. Some agencies seem to eschew the term "affirmative action," preferring "diversity management" or "affirmative employment." Whatever the term, these measures are universally considered essential tools to creating and sustaining an inclusive workforce. On the other hand, there is no uniform practice with regard to the use of EEO/affirmative action performance as an element of personnel appraisals for middle and senior managers, as there is in the military.

Several Clinton appointees indicate that their aggressive efforts to improve performance in this area have been successful, but have indeed engendered some resentment. They attribute this to the overall context of sharply declining FTE ceilings and, in some cases, to their more aggressive posture in comparison with the performance of their predecessors. (The EEOC, however, does not report a significant increase in formal reverse discrimination actions against federal agencies; we are seeking additional information.) It is important to note that the civil service statutes and regulations strictly regulate the mechanisms and decision principles for personnel reductions. Race, ethnicity and gender play no part in such decisions.

Finally, the question of how best to revise the management directive on EEO needs resolution. Among the issues for decision is whether to reinstate some form of flexible goals.

8. Affirmative Action in the Military: Summary Discussion

8.1 Concepts & Principles

The leadership of the military is fully committed to equal opportunity.

First, the current leadership views racial balance as a military necessity--that is, as a prerequisite to an effective force, and therefore critical to national security. Experience during the 1960s and 1970s with racial conflict in the ranks was a seemingly effective lesson in the importance of inclusion and equal opportunity. As a senior Pentagon official told us, "Doing affirmative action the right way is deadly serious for us -- people's lives depend on it."

Second, doing it "the right way" means that no unqualified person is ever promoted or assigned in pursuit of affirmative action goals.

Third, the diversity mission is aggressively integrated into the management systems -- from intensive efforts at training, to formal incorporation of EEO performance into the appraisals used by promotion boards.

Fourth, the military has the comparative luxury of making very substantial investments in outreach, retention and training. These tools help to build diverse pools of qualified individuals for assignment and promotion.

Fifth, despite the formality of the military system, there appears to be considerable variation in the details of implementation, as well as very significant differences among the services.

8.2 Policies & Practices

Because minorities are overrepresented among lower enlisted ranks and underrepresented among upper enlisted and officer ranks, the armed forces have focused on improving promotion practices. The services employ a number of tools:

- **Goals & Timetables:** The Navy and the Marine Corps, perpetually less successful than the other services in this arena, have responded in recent months by setting *explicit goals* to increase minority representation in the officer corps. Both services seek to ensure that, in terms of race and ethnicity, the group of officers commissioned in the year 2000 roughly

reflects the overall population: 12% African American, 12% Hispanic, and 5% Asian. The Corps has set a specific year-by-year schedule for meeting the 12/12/5 goal.

- **Outreach, Recruiting, & Training:** All of the services target outreach and recruiting activities through ROTC, the service academics, and other channels. Also, the services have made *special, race-conscious efforts to train minority candidates* for more senior positions.
- **Selection Procedures:** All of the services emphasize racial balance in their promotion procedures. The Army, for example:
 - instructs promotion boards to "be alert to the possibility of past personal or institutional discrimination—either intentional or inadvertent";
 - sets as a goal *that promotion rates for each minority and gender group at least equal promotion rates for the overall eligible population*;
 - establishes a "second look" process under which the files for candidates from underrepresented groups who are not selected upon initial consideration are reconsidered with an eye toward identifying any past discrimination.
- **Management Tools:** These include performance standards, reporting requirements, and training and analytic capacity.
 - DoD requires each service to submit an annual "Military Equal Opportunity Assessment," which states whether various equal opportunity objectives were met and identifies problems such as harassment and discrimination.
 - Personnel evaluations include matters related to effectiveness in EO matters.
 - DoD maintains the Defense Equal Opportunity Management Institute, which trains EO personnel, advises DoD on EO policy, and conducts related research.
 - DoD also conducts various surveys and studies.

8.3 Performance & Effects

In quantitative terms, the military has significantly increased opportunities for minorities. For example, in 1949 0.9% of all officers were African American; today, that proportion is 7.5%. (Further data from DoD are forthcoming.)

It is important to note, however, that equal opportunity has not meant racial harmony nor collective respect for the system. A congressional task force that interviewed 2,000 military personnel reported continued perceptions of discrimination, some perceptions of reverse discrimination, and a need to strengthen equal opportunity training. For example, the task force reported that at one institution, on a scale of 1 to 5 (with 1 = poor, 5 = excellent), minority enlisted personnel rated the equal opportunity climate at 1.9, while majority enlisted personnel rated the climate at 4.1.

There are also significant variations across the services, and across specialties and missions within each service. For example, the Navy and Marines have lagged, and all the services report comparatively less success in integrating the ranks of technical specialties and of certain "prestige" career tracks.

8.4 Implications

Several tentative inferences can be drawn from DoD's experience.

- **Goals and related policies play a critical role in military promotions.** This is in some tension with the view that military promotions are purely meritocratic. On the other hand, notwithstanding the statements of some critics, these goals are not "quotas," and there is no evidence that unqualified individuals are promoted.
- **The military is unique.** In significant respects, the policies and practices of the military may not be portable to other realms. The military is unlike other public and private entities in several relevant dimensions:
 - *A closed system:* There are virtually no lateral hires in the military, thus competition for promotions are among a closed group. Moreover, under the general "up-or-out" policy, underperforming personnel tend to leave the service.
 - *A controlled system:* The military has tremendous discretion to assign, train, and promote its personnel. This provides a degree of control not available elsewhere.
 - *A disciplined system:* Individuals who are unhappy with the management priorities, including the attention to diversity, are likely to keep their objections to themselves or exit the service. While EO measures are subject to continual evaluation, internal protest against such a high priority initiative would be frowned upon.
- **But some lessons may be transferrable.** Nevertheless, certain elements in the military success may be generalizable. Including:
 - *Top-down priority:* There is no confusion in the ranks about the importance of the diversity agenda.
 - *Thorough implementation:* Relatedly, the goals are pursued with a range of tools, from management information systems, to diversity training, to performance appraisals of managers based on their EO efforts.

- *Emphasize merit and patience:* The long term support for the program has depended upon the firm believe that merit principles are indispensable. The payoff has required both patience and investments.
- *Investments for a quality pool:* The organization works to recruit, retain and upgrade the skills of women and minorities to ensure that they, like their white male colleagues, can compete effectively in the promotion pool.
- Overall, the military has made significant progress. In part because of the closed and controlled nature of the system, the military has made significant progress. Interestingly, the side-effects of aggressive equal opportunity policy--resentment by white males--is probably subdued by the high level of discipline in the services.

It is worth noting, however, that President Truman's actions took **several decades** to bear fruit, as measured by the increasing representation of minorities in the flag ranks.

9. Other Federal Policies: The Federal Communications Commission & The Resolution Trust Corporation

9.1 Overview

In addition to the various classes of programs discussed above, there are a number of other federal efforts that are noteworthy or have proven controversial. This Part discusses two of those programs--administered by the FCC and RTC--and is based on materials prepared by the White House Counsel's office.

9.2 Policies & Practices

9.2.1 FCC Preferences & Targeting

In 1978, after convening a conference on minority ownership policies, the FCC concluded that the views of minorities were inadequately represented in the broadcast media, and that adequate representation of minority viewpoints was necessary for both the minority and non-minority communities. The agency determined that minority ownership was needed to ensure representation of minority views on a broadcast station.

Since that time, the FCC has undertaken a number of initiatives:

- **Consideration of minority status:** The FCC considers minority ownership in granting new broadcast licenses. Minority ownership is considered a plus in a comparative hearing, and weighed together with other relevant factors (diversification of control, owner participation in station activities, proposed service, past broadcast record, efficient use of frequency, and character of applicant).
- ✕ **Distress sale policy:** Under this policy, a broadcaster whose license has been designated for revocation or whose renewal has been denied can assign the license to an FCC-approved minority enterprise, and thereby avoid the otherwise applicable transfer procedures. The purchase price by the minority entity must not exceed 75% of the fair market value. (This policy is little used.)
- ✕ **Tax certificate policy (the "Viacom" issue):** Under FCC's tax certificate policy, a seller of a radio or television station can sell to a minority-owned enterprise (the minority buyer must maintain both legal and actual control over business operations), and thereby defer capital gains and/or reduce the basis of certain depreciable property. This program often lowers the price of the station for a minority buyer, thus overcoming the general problem

of lack of minority access to capital. This program is the one most frequently used in the transfer of licenses to minorities.

- **Efforts targeted at women owners:** The FCC has extended only the first of the forgoing preferences to women-owned businesses. However, in 1992, the D.C. Circuit -- in an opinion by then-Judge Thomas over a dissent by then-Judge Mikva -- struck down as unconstitutional the FCC preference favoring women applicants. In Lamprecht v. FCC, the court found no correlation demonstrated by the FCC between women ownership and programming directed towards women. The FCC has not attempted to reinstate this gender-based preference.
- **Auction of the spectrum:** When Congress authorized the auction of portions of the electromagnetic spectrum, it directed the FCC to "ensure that...businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, and other procedures." The FCC created bidding credits and tax certificates for women and minority-owned businesses in these auctions. In the fourth auction, which was to be held in mid-1995, the FCC created preferences for smaller entities, as well as women and minority-owned ones. However, that auction has recently been stayed by a Federal court, which is considering a constitutional challenge to the preferences provided by the statute and FCC implementing rules.

9.2.2 RTC and the Treasury

- Congress has established incentives to preserve and expand bank ownership by minorities and women. The RTC also administers a preference for the acquisition of institutions in predominantly minority neighborhoods. The Treasury Department administers a "minority-owned bank deposit" program in which these banks receive special consideration to act as depository institutions holding cash for the government.
- In addition, Congress has directed the RTC to use various contracting preferences in its massive effort to liquidate assets it holds as a consequence of the S&L crisis.

9.3 Performance & Effects

The FCC's efforts have encouraged a marked increase in the percentage of minority-owned broadcast licenses. In 1978, 0.5 percent of all licenses were minority-owned; today, 2.9 percent are. The FCC has testified that most sales to minorities occurring after 1978 would not have happened without the tax certificate policy.

The vast majority of existing minority broadcast owners have utilized tax certificates at some point during the past 15 years. In 42% of these cases, licenses were later transferred; the average

holding period is four years (we have no comparable data for non-minority owners). The data show that the great majority of tax certificates have been used to acquire relatively small radio and television stations. The FCC also believes that the program is not abused, either through the use of sham "minority-controlled" companies or through the rapid flipping of licenses by new minority owners.

9.4 Evaluations & Proposed Reforms

During recent Congressional consideration of tax legislation, the FCC proposed a number of reforms of the tax certificate program benefiting the seller of broadcast licenses to minority-owned and controlled entities. The FCC proposals would have limited and targeted the tax benefits. The Administration indicated in testimony and in negotiations on Capitol Hill that it favored such reforms rather than total repeal of the provision. Nevertheless, the Congress has moved to repeal the provision, and to do so retroactively in order to reach the multibillion dollar Viacom transaction.

The Review team has requested any evaluation information available to Treasury and the RTC concerning their programs.

March 25, 1995

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4/2/95

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By Andrea Stone
and Jim Norman
USA TODAY

AI

Most Americans want to help minorities and women succeed, but reject any programs that seem to give them an unfair advantage in school and the workplace.

A new USA TODAY/CNN/Gallup poll, one of the most extensive in the 30-year history of affirmative action, finds 55% support the broad concept of expanding opportunities for minorities and women.

Only a third, 37%, want such programs cut back; 31% want efforts increased; 26% want them kept at the same level.

But support drops sharply when people are asked about specific efforts to combat past discrimination and improve chances of women and minorities in hiring, promotion, contracting and school:

► 67% oppose setting aside scholarships at public universities for women and minorities.

► 63% oppose hiring quotas.

► 84% oppose hiring a less qualified minority over a white applicant at a business that has few minority workers.

Resistance to such favoritism includes 68% of blacks.

The poll also shows 64% believe blacks have as good a chance as whites to get a job, a key element in opposition to special hiring practices.

"Americans don't perceive that discrimination is a major problem" anymore, says political analyst William Schneider.

But racial differences remain. Among whites, for example, 68% oppose hiring quotas; 66% of blacks favor them.

White men are the strongest opponents of affirmative action, though most say they have not personally been affected.

► Only 15% of white men say they've lost a job because of affirmative action; 42% of black men say they lost a job because of discrimination.

The poll of 1220 adults was done March 17-19. Margin of error: 3% overall, 4% for whites, 6% for blacks.

COVER STORY

Affirmative action: Four groups' views

AI

Poll 'confirms the confusion' most people feel — until it becomes personal

By Kevin Johnson
and Andrea Stone
USA TODAY

In the gathering battle over affirmative action, there is no clear front line between white and black, male and female, Republican and Democrat.

A USA TODAY/CNN/Gallup Poll on the issue — the most comprehensive in two decades — instead finds a

large middle, split on how to achieve fairness. People want it on the job or at school, but oppose unfair advantages.

"This is really a sober view of the complexity of this issue," says Gallup's David Moore about the poll.

Out of this debate is likely to come the future shape of affirmative action — under fire from Republicans in Congress, under review by the Clinton administration and certain to be an issue in the 1996 election.

The poll does show some general trends:

► Blacks are more sympathetic to the need for affirmative action than whites.

► Republicans oppose it far more than Democrats.

► Women are more supportive than men.

And while there is no strong call to eliminate affirmative action, there's even less support for expanding it.

Please see COVER STORY next page ►

1/3

AIDS vaccine research faces a new setback

By Doug Levy
USA TODAY

AI

Scientists trying to develop an anti-AIDS vaccine have hit another brick wall.

An experimental vaccine that appeared to work in adult monkeys kills newborn monkeys, researchers report in today's *Science* journal.

"At first it may look like it's a setback," says Dr. Ruth Ruprecht, who led the research. "On the other hand, our data has given new insight into the workings of viruses like HIV, which causes AIDS."

Earlier studies in adult monkeys were encouraging to scientists who think a weakened form of the AIDS virus could be used in a vaccine.

But the study, using a weakened form of the monkey AIDS virus, indicates this strategy could instead lead to infection.

"This approach to an AIDS vaccine is full of hidden danger," says Ruprecht, of Harvard and the Dana-Farber Cancer Institute in Boston.

Ruprecht's team gave four newborn monkeys a vaccine of the monkey AIDS virus with key genes removed. None was exposed to a normal AIDS virus, but two died of the disease and two have severe immune deficiency.

Affirmative Action



By Julie Slacey, USA TODAY

Fairness key to support

Opinion more complex than traditional lines



Continued from 1A

"This is one of those issues that's tough to get a handle on," says Bob Roach, 30, a state worker from Jackson, Tenn. "Government should keep their hands off, let the cream rise to the top in business. But I know that when you do that, a lot of times you end up in court looking at some bad problems."

Howard University political scientist Ronald Walters agrees: The poll "confirms the confusion. ... The public is willing to accept something called affirmative action on the grounds of fairness, but not willing to accept hard quotas and set-asides, which have the same effect."

Beyond the traditional political, racial and gender fault lines, the poll shows the public split into four opinion groups, as identified by Gallup analyst Moore.

True Believers

They are the backbone of support for affirmative action. Mostly Democratic, this group is nearly half women, many of whom have benefited from the policies.

True Believers say that without government-mandated affirmative action programs, businesses and schools would not provide equal opportunities for women and minorities. And it is this group alone that supports quotas and favors an increase in preference programs.

'TRUE BELIEVERS' 28%

They strongly favor affirmative action:

How the group breaks down

Minority women	18%
Minority men	15%
White women	45%
White men	24%
Republicans	29%
Democrats	63%

Source: Analysis of March 17-19
USA TODAY/CNN/Gallup Poll
(Party affiliations include those who say they "lean" toward the party)

Though not totally comfortable with quotas, Joseph Jones, 55, says if government opts out of affirmative action, so would businesses and schools.

"It always seems to start when the economy gets really bad, bad enough that whites start losing their jobs," says the black Chicago computer programmer. "Then people start talking about how bad affirmative action is."

"You can't have all the toys," Jones says. "If minorities and women get shut out, the game is over and then there is trouble. I wish affirmative action never had to be, but I don't think we'll ever get to the point where we can do without it."

There is little room for compromise on this point with Jones and others like him. Most True Believers say job discrimination remains a problem for blacks and Hispanics. In this group, Democrats outnumber Republicans more than 2 to 1 — and almost a third are minorities.

This traditionally liberal group counts as its most articulate voices the National Organization for Women and the NAACP. And that may prove the biggest problem for President Clinton, who needs to retain his party's loyal voter base while not alienating the moderates he'll need to win re-election in 1996.

"The anti-affirmative action forces have controlled the dialogue and debate for many years," says Democratic pollster Mark Mellman. But his party has "done almost nothing to explain to the American public what it is and what it's good for. ... Democrats have to defang the issue."

The Antagonists

They are at the center of the current debate. Almost all white, mostly Republican and heavily male, affirmative action to this group means preferences, quotas and reverse discrimination. The Antagonists want no part of it.

They are also the force behind the proposed California Civil Rights Initiative, which would eliminate all preferences based on race or sex. They also report the highest incidence of reverse discrimination, making up the bulk of the 21% of white men who say they were denied a job or promotion, or failed to get admitted to a school, because of affirmative action.

For them, old-fashioned discrimination against women and minorities no longer is a problem.

THE 'ANTAGONISTS' 24%

They are strongly opposed to affirmative action:

How the group breaks down

Minority women	0%
Minority men	2%
White women	43%
White men	55%
Republicans	71%
Democrats	20%

Source: Analysis of March 17-19
USA TODAY/CNN/Gallup Poll

"Affirmative action breeds distrust between the races," says Republican pollster Frank Luntz. "It takes real or perceived inequalities and rubs salt in the wounds."

A long time ago, Rodney Myer, 63, of Baton Rouge, La., worked as an affirmative action officer, but the white man wants no part of it now.

"It says you can't do the job on the merits

so you have to do it another way," he says.

Antagonists aren't only angry white men, though.

Norma Stever, 62, a Spokane, Wash., medical transcriber, says she's "seen incompetent people get jobs who don't deserve them. ... That kind of unfairness is very frustrating."

Says Loretta Lutman, an Ashboro, N.C., volunteer zoo worker: "When you talk about affirmative action, the standards start to drop for women and minorities and here sits the little 'ol white man — left out."

"That really bugs me and I'm a woman," Lutman says.

It also bugs a tiny proportion of black men who say affirmative action casts a stigma on their qualifications and abilities.

"When you announce there are group preferences freely at work, people are going to perceive that to be the case, even when it isn't," says black conservative scholar Shelby Steele.

The Floaters

Enter the great big muddy middle.

'FLOATERS' 21%

They back principles but oppose some programs.

How the group breaks down

Minority women	9%
Minority men	4%
White women	47%
White men	40%
Republicans	44%
Democrats	45%

Source: Analysis of March 17-19
USA TODAY/CNN/Gallup Poll

Talk-show rhetoric does not fuel extreme emotions here. There is healthy support for affirmative action, but the level of commitment is lukewarm. Floaters favor government contract set-asides for minority run businesses, gender and racial quotas in schools, and outreach programs. But they are divided on business quotas and race-based scholarships.

Only a quarter says existing programs should be pared. And many support specific measures to ensure broader participation by minorities and women in schools and business.

They go as far as to set aside some government contracts for minority businesses and favor minority hiring if they are as qualified as whites. There also is support for engaging in general outreach programs to benefit women and minorities.

But the group also exhibits a major contradiction: Despite the support for quotas and special programs, only 1 in 10 believe that discrimination is a major problem for minorities and women. An overwhelming majority says blacks have the same chance as whites of getting a job. And even without mandated affirmative action policy, Floaters say businesses and schools would still be fair to women and minorities.

3/3

Connie Sue Knuckols, 46, of Fredricksburg, Va., is a Floater. Her solution to the whole problem: simply change the way we deal with our children.

"Kids would be raised, not to look at the differences, but to look at what makes us the same," Knuckols says. "Affirmative action would be obsolete."

Though laced with contradiction, this middle ground perhaps best defines the perplexing nature of the issue, analysts say. For politicians seeking consensus, it is chockful of land mines and, analysts say, where Clinton has most at stake.

"The polarized debate is not where people are positioned," says Democratic strategist Brian Lunde. "If we allow Jesse Jackson and (Fund for the Feminist Majority president) Eleanor Smeal to define our affirmative action position, we'll lose."

The Dubious

THE 'DUBIOUS' 27%

They are divided on goals and oppose many programs.

How the group breaks down

Minority women	4%
Minority men	3%
White women	45%
White men	48%
Republicans	49%
Democrats	41%

Source: Analysis of March 17-19
USA TODAY/CNN/Gallup Poll

Major divisions co-exist here.

A majority says job discrimination against blacks and Hispanics persists, but the same number says blacks already have as good a chance as whites in the workplace.

While they overwhelmingly support job training, outreach and special education classes for minorities, they strongly oppose quotas, set-asides and

special scholarships.

Patrick Green is among the Dubious. He wants a fair shot at a better job and believes affirmative action can help blacks like himself. But he is torn by a suspicion that the policy at its most extreme is misguided.

"No way could I support quotas or anything like that," says

Green, 24, a Plainfield, N.J., data entry clerk. "That kind of thing can never help business be competitive."

Worse than that, Green says, "it does nothing to motivate minorities to be the best they can be. You tell me whether you would give your best effort if going into a job you knew that you got hired to fill a quota. It's demoralizing."

While there is strong resentment for anything smacking of mandated favoritism, the Dubious overwhelmingly support aggressive recruitment of minorities and women, employment training programs for the disadvantaged, and special education classes to help minorities and women enter schools.

A majority also believes that blacks already have as good a chance as whites in landing a job in their communities.

"Employers should have the right to pick and choose who they want and not have to hire based only on race or gender," says Pat James, a black Fulton County, Ga., government employee. "Sometimes, I think whites believe that the only reason you got the job is because you are black."

Exit the people, enter the politicians.

For them, the supreme test is finding consensus in this collision of principle and personal experience, because traditional political groupings only scratch the surface of the issue.

In that sense, the game could turn on simple semantics, says political analyst Stuart Rothenberg.

"It's a good political issue, ending affirmative action, if it's defined as quotas," Rothenberg says. "But Republicans have to make it clear if they want to use it in '96. They have to define it as preferences, advantages. If they do ... they can tap that sensitivity."

Democrats, on the other hand, must redefine the debate if they are to prevail. Many are already trying to shift the focus away from race and toward gender, arguing that the biggest beneficiaries are not minorities, but women.

Still, despite all the philosophical hand-wringing over affirmative action, voters aren't likely to be riveted unless they feel their personal interests are at stake.

"If you only know it as an abstract you may not like it but it's not going to motivate you much," says political analyst Kevin Phillips. "But, if it becomes a job issue it simply becomes one of the most important issues."

'There are no easy answers' on Capitol Hill

By Desda Moss
USA TODAY

The debate over affirmative action heats up today when Congress opens hearings on the volatile issue that could shape the presidential campaign.

Assistant Attorney General Deval Patrick goes before the House Economic and Educational Opportunities Committee, which seeks information on affirmative action policies in the workplace.

"I never thought much of using discrimination to remedy discrimination," said Rep. Henry Hyde, R-Ill., chairman of the House Judiciary Committee, which is expected to hold hearings on affirmative action later this year. "How many hundreds of years must expire before we all are at the starting line?"

House Republicans have not yet written any legislation dealing with affirmative action and quotas, and Hyde said the complex and emotional issue deserves a thoughtful hearing.

"These are very nuanced questions," he said. "There are no easy answers and no flip answers."

There's disagreement about how far Congress will go to alter federal affirmative action.

"I don't think it's going to be an all-out assault," says Sen. Rick Santorum, R-Pa. "But there are some affirmative action programs not targeting the people who need to be targeted."

As the Senate prepares to vote on ending tax breaks for companies that sell broadcast licenses to minority businesses, Sen. Carol Moseley-Braun, D-Ill., vowed to fight for affirmative action.

"If there is any objective that should command complete American consensus, it is ensuring that every American has the chance to succeed — and that, in the final analysis, is what affirmative action is all about," she said.

Meanwhile, leaders of several national women's, civil rights, religious and labor groups took their campaign to preserve affirmative action in California to the steps of Los Angeles City Hall.

The coalition's action Thursday was aimed at blocking a prospective 1996 ballot initiative designed to end affirmative action. Gov. Pete Wilson has said he supports the roll-back measure.

Similar efforts under way in Washington, Pennsylvania and, most recently, Michigan have affirmative action proponents gearing up for battle.

Contributing: Mimi Hall and Judy Keen

USA TODAY • FRIDAY, MARCH 24, 1995

Affirmative action: The public reaction

Americans are torn on the issue of affirmative action. There is overwhelming support for some programs and strong opposition to others, a USA TODAY/CNN/Gallup Poll shows. And in a political climate where half of blacks report encountering job discrimination, while a third of whites say they have witnessed reverse discrimination, support for affirmative action often splits along racial lines. Here are three key issues in the affirmative action debate, and the answers uncovered by the poll.

USA TODAY • FRIDAY, MARCH 24, 1995

Is affirmative action needed?

Do you think schools and businesses would or would not provide blacks and other racial minorities with equal opportunities if the government dropped all affirmative action programs:

	All	Blacks	Whites
Would	46%	27%	48%
Would not	45%	67%	43%

How much of a problem do you think job discrimination is for the following groups?

	Major problem	Minor problem	Not a problem
White men	16%	29%	52%
White women	19%	38%	40%
Black men	41%	30%	25%
Black women	41%	31%	24%
Hispanics	38%	30%	23%
Asians	22%	34%	34%

How have lives been affected?

Have any of the following things ever happened to you as a result of affirmative action programs favoring minorities:

	All whites	White men	White women
Not offered a job that went to a racial minority	12%	15%	10%
Passed over for a promotion that went to a racial minority	8%	9%	8%
Not admitted to a school	2%	4%	1%

Have any of the following things ever happened to you as a result of affirmative action programs that favor women?

	All men	White men	Black men
Not offered a job that went to a woman	8%	7%	10%
Passed over for a promotion that went to a woman	7%	6%	11%
Not admitted to a school	2%	2%	6%

Do you believe that any of the following things have ever happened to you because of racial discrimination?

	All blacks	Black men	Black women
Not offered a job that went to a white	33%	42%	31%
Passed over for a promotion that went to a white	31%	42%	28%
Not admitted to a school	6%	7%	5%

Do you believe that any of the following things have ever happened to you because of discrimination against women?

	All women	White women	Black women
Not offered a job that went to a man	19%	20%	18%
Passed over for a promotion that went to a man	13%	13%	13%
Not admitted to a school	2%	1%	5%

Have you personally ever thought that a woman where you worked got a job or promotion she did not deserve as a result of affirmative action programs?

	All	Men	Women
Yes	19%	20%	19%
No	79%	80%	78%

Have you personally ever thought that a racial minority where you worked got an undeserved job or promotion as a result of affirmative action programs?

	All	Blacks	Whites
Yes	30%	15%	32%
No	69%	85%	66%

Have you personally ever thought that a well-qualified person at your workplace was hired or promoted as a direct result of affirmative action, and probably would not have been hired without affirmative action?

	All	Blacks	Whites
Yes	24%	32%	23%
No	75%	67%	76%

Have you ever thought that because of discrimination, someone at your workplace received a job or promotion rather than a woman or minority who was better qualified?

	All	Blacks	Whites
Yes	21%	36%	20%
No	78%	64%	79%

Have you ever thought your colleagues at work or school privately questioned your abilities or qualifications because of affirmative action?

	White women	Black women	Black men
Yes	8%	19%	28%
No	90%	79%	71%

By Julie Stacey, USA TODAY

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Affirmative action: The public reaction

USA TODAY/CNN
GALLUP

American are torn on the issue of affirmative action. There is overwhelming support for some programs and strong opposition to others, a USA TODAY/CNN/Gallup Poll shows. And in a political climate where half of blacks report encountering job discrimination, while

a third of whites say they have witnessed reverse discrimination, support for affirmative action often splits along racial lines. Here are three key issues in the affirmative action debate, and the answers uncovered by the poll.

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USA TODAY FRIDAY MARCH 24 1995

How much support for affirmative action?

Do you generally favor or oppose affirmative action programs for women and minorities?

	All	Blacks	Whites
Favor	55%	72%	53%
Oppose	34%	21%	36%

Do you think we need to increase, keep the same or decrease affirmative action programs in this country?

	All	Blacks	Whites
Increase	31%	65%	26%
Keep same	26%	26%	26%
Decrease	37%	6%	41%

Do you favor or oppose the following?

Making a certain number of scholarships at public colleges and universities available only to minorities and women:

	All	Blacks	Whites
Favor	31%	51%	27%
Oppose	67%	45%	71%

Favoring a well-qualified minority applicant over an equally qualified white applicant when filling a job in a business that has few minority workers:

	All	Blacks	Whites
Favor	48%	51%	47%
Oppose	44%	42%	45%

Requiring a certain percentage of government contracts to be awarded to businesses owned by minorities and women?

	All	Blacks	Whites
Favor	48%	73%	44%
Oppose	48%	24%	52%

Favoring a minority who is less qualified than a white applicant, when filling a job in a business that has few minority workers:

	All	Blacks	Whites
Favor	13%	22%	11%
Oppose	84%	68%	86%

Companies making special efforts to find qualified minorities and women and then encouraging them to apply for jobs with that company:

	All	Blacks	Whites
Favor	73%	87%	71%
Oppose	24%	12%	26%

Establishing quotas that require businesses to hire a certain number of minorities and women:

	All	Blacks	Whites
Favor	35%	66%	30%
Oppose	63%	30%	68%

Providing job training programs for minorities and women to make them qualified for better jobs:

	All	Blacks	Whites
Favor	82%	94%	80%
Oppose	17%	6%	18%

Establishing quotas that require schools to admit a certain number of minorities and women as students:

	All	Blacks	Whites
Favor	39%	70%	35%
Oppose	57%	27%	61%

Providing special educational classes for minorities and women to make them better qualified for college:

	All	Blacks	Whites
Favor	75%	90%	73%
Oppose	22%	9%	24%

Require private businesses to set up specific goals and timetables for hiring women and minorities if there were not government programs that included hiring quotas:

	All	Blacks	Whites
Favor	50%	75%	46%
Oppose	46%	21%	50%

Source: USA TODAY/CNN/Gallup nationwide telephone poll of 1,220 adults conducted March 17-19. Margin of error for the total sample: ± 3 percentage points. Margin of error for whites is ± 4 percentage points; blacks is ± 6 percentage points; men is ± 4 percentage points; women is ± 4 percentage points (some had no opinion).

Affirmative Action



By Joe Tabacca, AP

"There are a lot of people who need training for a lot of jobs right now and affirmative action is the only way they can get it."

— William Bellamy, 38, of Queens, N.Y.



By Steve Barrett

"Divide (affirmative action) up between all minorities and women, not just focus on women in general or blacks in general."

— Connie Sue Knuckols, 46, of Fredericksburg, Va.

More than equal opportunity, less than quotas

Definition, court's position have shifted in past 30 years

By Tony Mauro.
USA TODAY

In an angry, handwritten memo, the nation's first black Supreme Court justice told his white colleagues why America needed affirmative action.

"We are not yet all equals," Thurgood Marshall wrote in a 1978 note that recently came to light. "As to this country being a melting pot — either the Negro did not get in the pot or he did not get melted down."

The court went on that year, in the landmark *Bakke* case, to strike down a racial quota that kept a white male out of a California medical school.

But it said using the race of applicants as a "plus factor" in a less formal way — without strict quotas — was acceptable.

Ever since then, affirmative action has been attacked, praised and misunderstood — but also largely accepted in the American workplace. It has been endorsed by political leaders from Richard Nixon and Robert Dole to Jesse Jackson, and embraced by many corporations and government agencies, large and small.

But what is it? And why has it risen to the top of the political and legal agenda?

Lack of definition

The term affirmative action encompasses a range of measures aimed at compensating for past discrimination by increasing the chances that minorities or women will be chosen for jobs, promotions, admissions or contracts.

It's more than equal opportunity — encouraging minorities and women to apply for jobs, promotions or contracts. But it is less than quotas, whereby jobs don't get filled until a minority is found.

Within that spectrum, a definition of what is legal and what is not legal has shifted, sometimes depending on what kind of employer is involved.

In fact, some forms of affirmative action seem to be banned outright in the main federal law on the subject.

The 1964 Civil Rights Act prohibits workplace discrimination on the basis of "race, color, religion, sex or national origin." That law also says it should not be interpreted to require any employer "to grant preferential treatment to any individual or to any group."

It wasn't long before it became clear to many that passing a law simply banning bias was not enough.

In 1965, Lyndon Johnson signed an executive order telling companies that receive federal funds to establish minority hiring goals — but not quotas.

"Some people were simply not going to change unless you ordered them. 'The next person you hire is black,'" says University of Washington law professor Eric Schnapper, a longtime civil rights lawyer.

The so-called Philadelphia plan, instituted under Nixon in 1969, required federal contractors to set goals for minority hiring. The number of minorities in construction jobs jumped from 1% to 12%.

Unions and employers protested at first, but learned to live with affirmative action plans — some of which might not pass legal muster today.

"It was the lesser of two evils," recalls Washington lawyer David Copus, a former government official who helped force AT&T to hire more minorities in the early 1970s.

"Better to do this than be accused of violating the law."

The backlash

But as the years have passed, more and more uneasiness has built up among white males and others toward programs that clearly give preference on the basis of race.

"Twenty years ago, most white people had pretty direct knowledge of what was going on with black people," says Schnapper. "Now, the only race-conscious thing that young people see may be affirmative action. Bull Connor isn't on TV anymore."

The court's role

The Supreme Court, once the key champion of affirmative action, has also shifted. Marshall, who fought for affirmative action, was replaced in 1991 by Clarence Thomas, who says it stigmatizes blacks and holds them back.

Some basic principles gleaned from court rulings on affirmative action:

► **It's remedial.** The court has said there ought to be some evidence of past bias as a backdrop for whatever boost, bonus or remedy that is being given to minorities or women today.

In 1989, justices struck down a Richmond, Va., plan that required 30% of city subcontracts to go to minority-owned companies. Not enough evidence of past bias, the court said.

Related issues — such as how recent the past bias has to be — are much less clear.

► **It can't dislodge whites.**

The courts have generally looked kindly toward plans that boost minorities' chances of getting hired — even though some pool of white applicants did not get the job. Those whites, in theory, have other doors to knock on.

But plans that called for laying off or firing specific whites to make room for blacks have generally been struck down.

"There is a fundamental difference between not being hired and being fired," says Darien McWhirter, author of *Your Rights at Work*. "Affirmative action that causes you to fire white people is illegal."

A New Jersey case on its way to the Supreme Court may

test that rule. The Clinton administration has sided with the Piscataway school system, which used race as a "tie-breaker" when it chose to lay off a white teacher and retain a black teacher with roughly equal seniority.

► **It can't exclude all whites.** "If the sign goes up, 'Whites need not apply,' it won't fly," says Copus, who advises employers on affirmative action.

That principle is what led the court to agree with Allan Bakke in 1978 and strike down the University of California-Davis program setting aside 16 out of 100 medical school openings for minorities.

Last month, the Justice Department sued Illinois State University, challenging a training program that considered only those applications from minorities or females.

"When individuals are absolutely precluded from getting a job because of their gender or race, we have an obligation to enforce the law," says Assistant Attorney General Deval Patrick.

► **An affirmative action plan should have an end.** In 1979 and 1986, the court approved two plans — one for steelworkers, one for firefighters — that set goals for minority hiring that had an end.

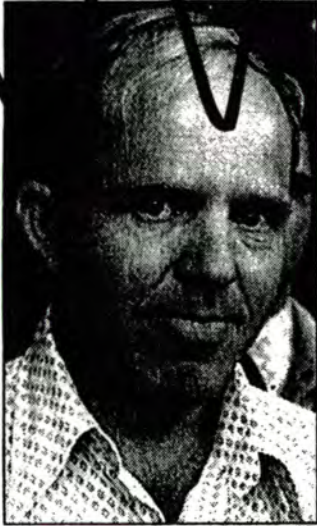
Justice Harry Blackmun wrote in the *Bakke* case that "in order to get beyond racism, we must first take account of race." He hoped for the time "when an 'affirmative action' program is ... a relic of the past," and guessed that would take about 10 years.

Seventeen years later, the courts, Congress and society are looking at whether the time has come to turn affirmative action into a relic.

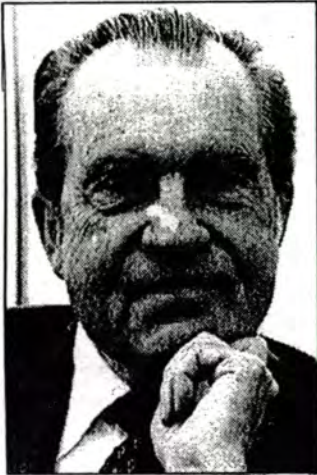
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More than equal opportunity, less than quotas

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By Paul Sakuma, AP
BAKKE: Ruling in landmark case in 1978 struck down a racial quota that excluded him from California medical school.



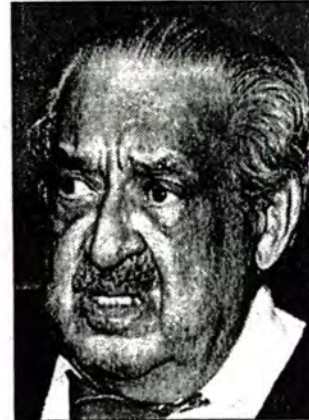
Reuters/Bettmann
NIXON: Instituted the Philadelphia plan in 1969 requiring federal contractors to set goals for minority hiring



By Tory Wesnofske, AP
A DUTY: 'When individuals are absolutely precluded from getting a job because of their gender or race, we have an obligation to enforce the law,' says the Justice Department's Deval Patrick.



AP
HIRING GOALS: President Lyndon B. Johnson at Washington's Howard University in 1965, the year he signed an order requiring companies that receive federal funds to set minority hiring goals.



AP
MARSHALL: 'We are not yet all equals,' he wrote in 1978.

Fitting the label: Several hiring plans

Several hiring plans have been labeled affirmative action over the years, but not always correctly, says Darien McWhirter, author of *Your Rights at Work*:

► Employers actively seek out and encourage minorities and women to apply for jobs. This, says McWhirter, is not really affirmative action, but has gained wide acceptance in the workplace.

► Two candidates are essentially equal in qualifications, and the job goes to the minority or female candidate if they are underrepresented in the company or agency. The Supreme Court has approved this kind of classic plan, particularly in jobs traditionally dominated by white males, such as county road crews.

► Women or minorities get the job if they meet the minimum qualifications, even if there are clearly more qualified white male candidates. This form of affirmative action has been allowed in some court cases — particularly in federal and private sector programs — and struck down in others at the state and local level.

► The search continues until acceptable women or minorities can be found, regardless of whether a qualified white male is available. This type of rigid quota has not been upheld in the courts, and is not legally viewed as affirmative action.

Voices: Why do whites and blacks look at the O.J. Simpson case so differently?

A recent CNN/USA TODAY/Gallup Poll found black and white Americans view the O.J. Simpson case very differently. For example, among the 1,000 adults polled, 66% of blacks said the justice system is racist, compared to 37% of whites who gave the same answer. USA TODAY asked readers their thoughts about the contrasts.



Gayle Weaver, 42
College professor
Galveston, Texas

Because of African-Americans' long history of discrimination, they know that justice is not a reality for them. So they are skeptical about the outcome of the trial. Because of white Americans' ownership of the justice system, they have bought into the notion of "justice for all."



Lee Nugent, 61
Retired teacher
Peoria, Ill.

Blacks transfer their experiences and their understandable prejudice against the Los Angeles police into this trial. Whites have more faith in the justice system. With black lawyers and a black-majority jury, I'm surprised whites show such diverse results between races.



Chong K. Kim, 24
Disability assistant
Coventry, R.I.

The media portray this case as the case of the decade or century, and race is a big issue. People naturally root for their own people. Subconsciously, blacks have united and whites have united to vote for their people. The L.A. riots also caused this to happen.



Jerry Dingle, 41
Salesperson
McDonough, Ga.

We as a race do not see America or its justice system as white Americans see it. We see through the eyes of people who face injustice every day. We see and feel things whites don't. We should accept those differences rather than try to make people the same.



Ruth Dorsey, 55
Realtor
Anacortes, Wash.

Polls deal with yes or no. But people can't be charted or formulated. To truly know why individuals respond differently, you need to know their backgrounds: culture, environment and family. The answer lies less in a person's race than it does in his individual experiences.

Affirmative action: Not an all-or-nothing issue

USA TODAY • FRIDAY, MARCH 24, 1995

After 30 years of acceptance, the wisdom of affirmative action is up for recall. From California to Congress, the clamor is growing to revamp or to eliminate activist policies designed to deter gender and race discrimination.

Why now? Has the ultimate goal — a society where color or sex shouldn't

matter when it comes to opportunity — radically changed? Has it been realized?

No on both counts, according to a comprehensive look at attitudes on affirmative action in a USA TODAY/CNN/Gallup Poll. Strong general approval remains, 55% nationally, for the principle of affirmative action. Indeed, a majority — 52% of whites and 91% of blacks — believe the commitment should be maintained or increased.

Another significant consensus also emerges: resounding affirmation for the value of merit. Blacks and whites agreed — 68% and 86% respectively — that less qualified minority candidates shouldn't be hired over more qualified non-minorities just to fill affirmative action goals.

So, wherein lies the rub? As always, in the details.

Mirroring the angst of the current national debate, poll respondents disagreed — white and black, male and female, Republican and Democrat — on how aggressively racial and gender diversity should be sought in the public and private sectors.

Some splits were predictable. Blacks overwhelmingly support — and whites reject — the most aggressive courses: quotas in the workplace and on campuses; the "set-aside" of a certain percentage of government contracts for businesses owned by

women and minorities.

While often the most expedient remedies, these programs also are the most controversial. Horror stories of such programs gone awry — the qualified white male losing a promotion to an unqualified woman, the white-owned business that gets a contract or tax break by using a black person as a front — provide grist for those who want to cripple affirmative action.

Sen. Phil Gramm has vowed to end set-asides if elected president. Sen. Bob Dole, another presidential contender, wants to eliminate "preferential treatment." President Clinton has begun a review of all 160 federal laws on the subject.

Setting aside political hyperbole — and that would be a welcome if unrealistic rule for this debate — affirmative action is due for a review. Like other 30-year-old programs, it has acquired barnacles over time, misunderstandings, misinterpretations, and mistakes of intent and execution.

Despite all that, in combination with civil rights legislation, it's helped bring the nation a long way. Blacks no longer are restricted to menial, backroom jobs; women's career choices no longer limited to steno pools and kitchens. That's progress, and the poll reflected it.

At the same time, a majority of blacks and whites believe in the continued need for job training, special education and recruiting for minorities and women.

This country and its ideals will not be served by an all-or-nothing shouting match on affirmative action.

Let's debate its methods, update its mechanics. Let's not lose sight of its ultimate goal — a colorblind land of opportunity.

► Attitudes toward affirmative action, 1A

Affirmative Action

Miami cops grapple with tough issue

By Kevin Johnson
USA TODAY

MIAMI — About eight hours into a diversity training session with 15 police officers, seminar leader James "Buster" Tokley pops the question:

"Men and women of the Metro-Dade Police Department, what do you think about when I say the words 'affirmative action'?"

His words had barely settled into the aisles of the nondescript, whitewashed classroom before backs stiffened, faces reddened and a rush of words poured from mouths, some of which had hardly opened during the two-day session.

From the side of the room: "Minorities want things handed to them," officer Jennifer Garcia said matter-of-factly. "The (affirmative action) laws are put there to fill a quota. It's as simple as that."

From the back: "Why do you have to have women for certain positions?" asked Detective Jose Grau, a Hispanic officer. "I'm not against women. But if you call for a backup, I think you would like to see somebody ... strong coming to help you out."

Affirmative action — programs that boost the chances of women and minorities in hiring, promotions, contracting and education as a way to redress discrimination — is under fire from Republicans in Congress, under review by the Clinton administration and certain to be a key issue in the 1996 presidential campaign.

And here a group that includes one black man, four Hispanic men, eight white men, one Hispanic woman and one white woman takes up the national debate — a window on a discussion once limited to private exchanges over the nation's kitchen tables.

"When I came on the force 24 years ago, you didn't look at people who got hired as black or white," said Sam Guthas, a white officer. "A cop was a cop. It just ain't that way any more."

Less than an arm's length away, officer Manuel Perez, a native Cuban, is simmering.

"How many whites don't know their butts from their elbows?" he says, angrily. "You know them because they got hired, too. They are here because of the good ol' boy system. You know I'm right."



By Tom Salyer

POLICE SEMINAR: 'It's like everybody has been quietly feeling each other out for a long time, not knowing the rules of the game or which side we should be on,' says James Tokley, left.

Affirmative Action

USA TODAY's coverage of affirmative action includes a comprehensive USA TODAY/CNN/Gallup Poll in Friday's editions.

For reprints of the poll and analysis, call ResearchLine: 703-276-5864. Fees are charged for ResearchLine reprints. Please allow three to six weeks for delivery.

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Tokley, who runs seminars for police and other groups, is accustomed to the responses.

"The phrase 'affirmative action' has become an epithet of our time," he says. "People are more scared these days, not of simply adapting to change of culture or gender ... but of change at light speed."

This struggle over affirmative action has not gone unnoticed among the top ranks in a department where 48 out of 77 top jobs, or 62%, are held by white men in a community that is more than half minorities.

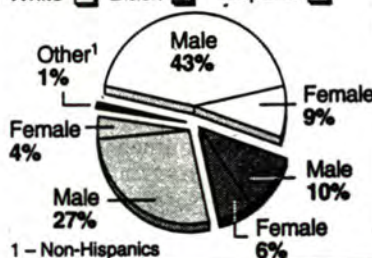
Rick Holton, a black lieutenant, says that as the department moves to increase diversity, white officers question whether their futures promise the same as their minority counterparts.

Miami seeks police diversity

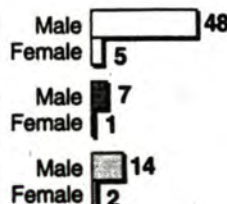
The Metro-Dade Police Department is trying to design an affirmative action plan to reflect the racial and ethnic makeup of Miami and Dade County, Fla.:

Police officers

White ☐ Black ☐ Hispanic ☐



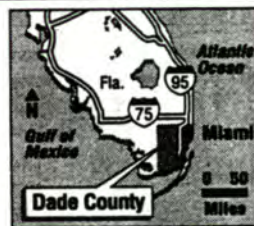
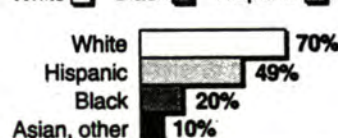
Leadership roles



Hispanic origin

Of Dade County's 2 million people, almost half are of Hispanic origin.

White ☐ Black ☐ Hispanic ☐



2 - Hispanics may be of any race, so percentages total 149.

Source: Metro-Dade Police, Census Bureau

By Elys A. McLean, USA TODAY

"I think there is a feeling among Anglo males that, 'My time has come and gone. All I can do is do my 25 (years) and leave,'" Holton says.

In the end, as in the raging national discussion, the classroom debate between police officers retreated to sometimes icy polarization.

One side is defined by Sgt. Charles Gibson, a 62-year-old white officer who acknowledges growing up influenced by stubborn prejudices. On the other is Perez, who believes affirmative action has not gone far enough to reflect the fast-changing population's needs.

"I think I've come a long way (dealing with prejudice)," Gibson says. "But I see people getting promoted that aren't qualified. If you question

it, you get accused of racism whether you are a racist or not. It's frustrating. So you don't talk about it."

Says Perez: "There are people who just don't want to look around and see people who are different than they are. ... They are from the old school, which said ... that WASP is the only way to be."

Tokley says training sessions have prompted similar discussions throughout the state.

"It's like everybody has been quietly feeling each other out for a long time, not knowing the rules of the game or which side we should be on," he says.

"Some of these people here are voices we have never heard before. But Washington will hear them before this is over. I promise you."

THE WALL STREET JOURNAL MONDAY, MARCH 27, 1995

That's No White Male...

By ELLEN LADOWSKY

As the war over affirmative action heats up, defenders of America's system of quotas and preferences are attempting to draft new foot soldiers: women.

At the beginning of this month, Jesse Jackson held a press conference to denounce President Clinton's decision to review all federal preferential hiring programs, strategically flanked by the leaders of the National Organization for Women, the Feminist Majority Foundation and the National Committee on Pay Equity. Katherine Spillar, national coordinator for the Feminist Majority Foundation, accused opponents of affirmative action of concealing the potential harm that could be done to women "because they know affirmative action for women is popular, and they dare not wake a sleeping giant—that is, the majority of the American electorate."

Yet that "giant," it turns out, is already awake—and running in the opposite direction. Although polls show that affirmative action continues to be popular among blacks, its popularity among women is collapsing. A Washington Post poll released last week found that 69% of women (and 76% of men) oppose affirmative action for women. "If you look at special preferences by gender [in polling data], there is very little difference between men and women—they are equally opposed," says sociologist Seymour Martin Lipset, who has long followed public opinion toward affirmative action.

Delivering the Death Blow

In California, where voters will be asked to cast a ballot on an anti-affirmative-action measure in 1996, early polling suggests that women's support for the "Civil Rights Initiative," as it is called, is almost as strong as that of white males, according to pollster Arnold Steinberg, chief strategist for the initiative. Mr. Steinberg acknowledges that much can happen between now and the election, but he stresses that women—53% of the California electorate—will be the linchpin of any campaign strategy. If he is right, it will be women who deliver the death blow to the state's sex and race preferences. Even Kim Gandy, a spokeswoman for NOW, concedes that winning women's opposition to the measure will be an uphill battle.

But beyond the California vote, there is a deeper question of why women may be turning against affirmative action. The most obvious reason is that women no longer view themselves as the chief beneficiaries of affirmative action—a perception that Jesse Jackson and the feminist organizations were trying hard to dispel by standing together at the podium that day.

Although there is mostly just anecdotal evidence, there is a widespread belief in many workplaces that being a woman is no

longer an advantage from the point of view of affirmative action administrators (many of whom are women too). The work force has been saturated by women with degrees, training and qualifications. There are fewer and fewer employees who are desperate to fill a "female" quota.

"White women have been pushed down the list in terms of preference," says sociologist Frederick Lynch, author of "Invisible Victims." "It's no big deal to hire

Women no longer view themselves as the chief beneficiaries of affirmative action—a perception that Jesse Jackson and the feminist organizations are trying hard to dispel.

a white female anymore." An executive recruiter in Washington, who insists his firm doesn't conduct "affirmative action searches," admits the employer will sometimes express a preference. "All things being equal," he reports, they'd like to hire a minority, and minority tends to be African-American, Hispanic or Asian—rarely women."

The diminishing returns of affirmative action are particularly felt by young women entering the work force. By now the formal and informal barriers that once kept women out of many fields have come down. The white female college graduate is likely to face the same employment problems that have confronted her male classmates for the past decade: a limited number of slots, competition for promotions and the denial of jobs because of "set-asides" for minority applicants.

Even in the instances when women are still hired to meet a quota, it is not always to redress perceived discrimination—quite the opposite. It can be a way of circumventing requirements for a minority candidate. A philosophy professor at a small, elite college told me that it is common practice for academic departments to hire women to meet affirmative action guidelines because, "we have trouble finding qualified minority candidates, but it is easy to find a qualified woman."

In fact, a new study to be published in the April issue of Industrial and Labor Relations Review suggests affirmative action's central justification—that by promoting women in nontraditional fields and creating "role models," more women will follow—simply isn't panning out. The study, by Princeton economics Prof. Harvey Rosen and Brandice Canes, a graduate student at Stanford, found that there was no significant rise in the number of female majors in departments where there had been an increase in the hiring of female professors.

This is not to say that women haven't benefited since the introduction of affirmative action programs nearly 30 years ago.

The recently released report of the federal Glass Ceiling Commission tried to salvage the case for affirmative action for women by stating that only 5% of senior management positions are held by women. Yet that misleading figure is based only upon a study of Fortune 1000 companies. Outside this elite group, women now hold 45% of all managerial jobs and 53% of all professional jobs, according to the Labor Department.

Further evidence shattering the Glass

Ceiling Commission's perception of women's progress comes from Newsweek: One of the two studies the commission relied upon has been updated to show that women now hold 10% of the top executive positions, up dramatically from 1.5% in the 1980s. In fact, in the nearly 30 years since affirmative action programs were introduced, women have done quite well: Economist June O'Neill has found that the earnings of women between the ages of 27 and 33 who don't take time out for child rearing are now 98% of men's.

Women's advancement in the workplace, then, seems indisputable. Yet

should affirmative action get all the credit? Some researchers say no. "My own sense of the data," Mr. Lynch says, "is that primarily it's cultural change and enforcement of nondiscrimination, not necessarily preferential treatment."

The Angriest People

The final undoing of affirmative action in women's minds, however, may not stem from consideration of their own careers. Women know the men who have been victims of affirmative action's reverse discrimination or men who consider themselves to be victims. They are their husbands, brothers or sons. Nonworking women—or women temporarily out of the work force to raise children—count on their husbands' salaries and promotions to support their families. The angriest people Mr. Lynch has talked to, "were the wives of men who had suffered reverse discrimination," the sociologist said.

This "stand by your man" factor may turn out to be the force that causes female voters to reject affirmative action—first in California, and then across the nation.

Ms. Ladowsky is a Washington-based journalist. This is adapted from an article in the spring 1995 issue of *The Women's Quarterly*, published by the Independent Women's Forum.

... That's My Son

By SONYA JASON

As an adult college student who had not attended high school, I toiled over the usual number of units per semester while also caring for my husband and two small boys. There was no financial aid, nor did I expect any. It was gratifying enough to edit my community college's newspaper and, one summer, to produce a weekly newspaper for a Cal State campus. I earned awards and commendations and, in 1963, a B.A. in journalism.

But after graduation, I found there were no nonclerical positions in the media for women. I was saddened that my sex was all the interviewers saw—that accomplishment was secondary. But, as any sensible person would, I set aside disappointment and put what I learned to the best possible use, accepting positions as a social worker and later as a probation officer. During those years I continued to write and be published. Above all, I believed that my children would be spared such discrimination.

But that is not the case for my two sons. One, after 18 months of hell in Vietnam, entered a highly technical skilled field where he found a niche after a long struggle.

The other, a born scholar, spent years of 14-hour days in pursuit of academic excellence. He graduated from a tough university with degrees in philosophy and physics and immediately went on to earn master's degrees in computer science and philosophy and a doctorate in philosophy.

It was heartbreaking to observe him conscientiously preparing for interviews for tenured positions only to have them given to lesser-qualified people, always minorities or women. How insulting to sit through the charade of an interview when the decision had already been made!

But my son did not let this defeat him. As any sensible person would, he made the most of what he'd learned. He is teaching part time and earning the bulk of his living as a business manager. And he writes, and publishes, too. His two textbooks are widely used.

My parents were impoverished immigrants who knew mostly bleak oppression in their native countries. Neither they nor we, their descendants, ever oppressed anyone. Yet my sons are punished.

Ms. Jason, a coal-miner's daughter, is a free-lance writer in Woodland Hills, Calif.

Carl B. Feldbaum

The FDA Is Slowing Things Down

Rep. Ron Wyden, in his defense of the status quo at the Food and Drug Administration [op-ed, March 14], ignores the real issue: Has this federal bureaucracy kept up with today's new technology?

Lifesaving new drugs do take too long to reach the people who need them, primarily because of impediments placed in the paths of those who make them—especially the emerging biotechnology companies that are developing those drugs. Changes could be made to speed up the present system without affecting the FDA's high safety and efficacy standards.

The problem now is that new technology is progressing ever faster while the federal agency charged with regulating its products is still governed by laws written generations ago. ~~Twenty-seven biotechnology drugs and vaccines have been approved in a little more than 12 years. These drugs have been developed using genetic engineering and/or living cells and organisms as part of the production process.~~

Biotech drugs treat complications from AIDS and other human immune system disorders. They dissolve clots involved in heart attacks and treat multiple sclerosis, cystic fibrosis, diabetes, leukemia, kidney cancer and other conditions.

Most traditional drugs made from chemical compounds are regulated under the Food, Drug and Cosmetic Act, passed in 1938. Most of the 27 approved biotechnology drugs and vaccines are governed by the Public Health Service Act of 1912.

What this means in practice is that the two types of drugs get unequal treatment. Companies making biotech drugs, for example, must seek two specific approvals from the FDA—one for the process by which their drug will be produced and one for the drug itself. Every time the process is changed in almost any way, even when a piece of equipment is moved at the factory, the company must get a new approval. This increases

the burdens on already overstretched resources at the FDA and takes reviewers away from their primary job of examining new products.

The 1912 act requires biotech companies to build full-scale manufacturing facilities *before* their drugs are approved. One biotech company, Synergen, built a \$50 million facility for a drug, Antril, that ultimately never received approval. The company's cash position was so weakened it was later bought out.

The law also hinders biotech companies from licensing other qualified manufacturing facilities

Taking Exception

to produce their drugs to meet changes in consumer demand. Makers of traditional drugs can do this, but for biotech products, a new clinical trial must be conducted for each additional manufacturing facility.

When Chiron received approval in 1993 for Betaseron, a breakthrough treatment for multiple sclerosis, it did not have the manufacturing capacity to meet patient demand. The company had to hold a lottery as the only fair means of choosing patients to receive the drug.

Conversely, when a company receives approval to sell a biotech drug in another country, the FDA must also approve the export of that drug from U.S. facilities if it has not yet received approval here. Companies build plants overseas just to avoid this misguided bureaucratic requirement. A U.S. biotech company recently moved part of its packaging operation to Europe so it could better respond to the European marketplace and be free of onerous FDA labeling requirements.

Conventionally produced chemical drug compounds do not face this unnecessary hurdle of

supplying a sample from each production run to the FDA. Biotech drugs do.

Any modernization of the FDA process should include changing the way the agency regulates the three-step clinical trial process that proves drugs are safe and effective for their intended uses. Phase I clinical trials are normally done on a small number of healthy patients to prove the drug is safe. Currently, the FDA itself must give the go-ahead for a clinical trial.

The FDA could free up significant resources if it would allow medical research facilities, teaching hospitals and the other places at which Phase I trials are conducted to review the clinical trial protocols. FDA would then simply regulate the institution rather than each specific test.

FDA's labeling requirements also cause unnecessary delays in bringing products to market. Under current regulations, whenever a company disseminates any important scientific information about a drug product, it is called labeling, and is subject to strict limitations. One biotech company had to delay a product launch for six months while the FDA reviewed the marketing literature the company could distribute to doctors.

These proposals for changes at FDA aren't earthshaking or controversial or without precedent. Some biotech drugs, such as human insulin and human growth hormone, have been reviewed under the regulations governing conventional drugs without difficulty.

Nor do these proposals preclude looking at more fundamental changes in how drugs are developed and approved in the United States. They would, however, help the FDA keep pace with the technology it regulates and help get desperately needed drugs to people who need them.

The writer is president of the Biotechnology Industry Organization.

THE WASHINGTON POST
TUESDAY, MARCH 28, 1995

THE PRESIDENT HAS SEEN

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President due 'some credit,' says Gingrich

Speaker gives rival good marks
for his efforts on the economy

By Mark Sherman
and Kathy Alexander
STAFF WRITERS

President Clinton, who arrives today for a two-day visit, got some help Monday from a most unexpected advance man.

Speaker of the House Newt Gingrich had some uncharacteristically kind words for Clinton at an Atlanta news conference.

"I thought he had a better run the last year than I thought he would in terms of the economy," said Gingrich, who earlier spoke to the downtown business group Central Atlanta Progress. "Give the guy a break, he's working very hard, doing the best he knows how to do. He deserves some credit. He has done some things that are useful."

While Gingrich's remarks were not without some bite, they fit well with the principal event on the president's schedule, a 12-state regional economic summit scheduled for Wednesday at Emory University.

Vice President Al Gore and other Cabinet officials also are expected at the conference, which is modeled on an economic forum held in Little Rock before Clinton's inauguration 26 months ago.

The president and his team are expected to focus on the South's robust economy, which is certain to be a key element in Clinton's drive to hold onto Georgia and other Southern states in the 1996 presidential campaign.

The trip also will include Atlanta's other big success story, the 1996 Olympics. Shortly after his arrival, Clinton will visit Inforum, headquarters of the Atlanta Committee for the Olympic Games, and meet with ACUG officials and staff volunteers for the Olympics and the Paralympics.

"This is showing the flag in a state that he won two years ago but where he would be running



More coverage
of the president's visit

IN LOCAL NEWS

Emory works around the clock in preparation **B3**

Columnist Tom Baxter reviews the Zell Miller connection **B3**

Television highlights **B3**

IN BUSINESS

A snapshot of economic conditions across the South. **D1**

as an underdog today," said Merle Black, an Emory political science professor. "This is a way to increase his visibility. When you do that, you associate yourself with good things."

Gingrich, who has yet to endorse a Republican candidate, agreed: "If you're president, you hardly want to come out and expose your failures."

Before leaving for Tallahassee Wednesday, the president also will take part in a reception at the Governor's Mansion on the eve of the economic summit and talk to Emory students afterward.

Clinton, who last was in Atlanta 11 months ago, is scheduled to spend tonight at the mansion. That will mark the first time a sitting president sleeps in the Buckhead mansion, although Jimmy Carter lived there when he was governor and spent a night there between his election as president and his inauguration.

In late 1991, Clinton, then governor of Arkansas, stayed at the mansion in the early stages of his presidential campaign.

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First Page.

Congress Protects Pork In Pentagon Spending

Budget Cutters Spare '95 Defense Plan

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By Walter Pincus and Dan Morgan
Washington Post Staff Writers

Before Congress adjourned last year it passed a \$243 billion defense appropriations bill containing dozens of "pork barrel" projects for members' home states, as well as numerous non-defense programs that could not get funded in other spending bills.

Among them were \$5.4 million for Hawaii's Small Business Development Center; \$3.5 million for a Cook County, Ill., military-style boot camp for youthful drug offenders; \$10 million for a National Guard outreach program to help Los Angeles youth; and \$1.5 million to round up wild horses wandering onto the White Sands, N.M., Missile Range—a job once handled by the Bureau of Land Management.

There was \$15 million for developing an electric car, a project that found a home in the defense bill in the late 1980s when money for energy appropriations grew tight.

Now Congress, in its first round of serious budget cutting, is slashing billions of dollars of previously approved spending, for purposes ranging from public broadcasting to housing AIDS patients.

But the Republican leadership on Capitol Hill has left untouched the projects listed above. The spending is part of billions of dollars never sought by the Pentagon, but added to the defense bill last fall at the behest of senators and representatives from both parties.

"The insertion of these items has become an incredible art form," said Sen. John McCain (R-Ariz.), a member of the Senate Armed Services Committee. He has compiled a list of more than \$6 billion in defense projects that he says represent "wasteful, earmarked, non-defense, or otherwise low-priority programs."

Despite the GOP's seizure of control of Congress in the 1994 midterm elections, McCain said, refusal to cut these programs suggests "business as usual" is continuing in Congress.

Republican leaders have given defense a comparatively protected position as they go about the initial round of budget cutting. A House-passed bill cuts \$17.1 billion from domestic programs, but nothing from the 1995 defense budget. A toned-down Senate version, which trims \$13.3 billion, also exempts defense.

In separate, supplemental legislation, the House and Senate did propose defense cuts of \$1.4 billion and \$1.9 billion, respectively,

See DEFENSE, A5, Col 2

DEFENSE, From A1

in allocating emergency funds to replenish Pentagon coffers. The House cut \$502 million from the administration's technology reinvestment program, which helps defense companies convert to civilian production.

But almost all of the projects added by members last fall to the 1995 defense budget have so far survived. A House-Senate conference on the recisions bill, scheduled to begin Wednesday, will be the last chance to kill these "add-ons" for fiscal 1995.

Hawaii, the home state of Sen. Daniel K. Inouye (D), then chairman of the Senate Appropriations defense subcommittee, got more than the Small Business Center among the earmarked projects. There was \$56.4 million earmarked for the Pacific Missile Range; \$13 million for a high-performance computer facility on Maui; \$10 million to home port two transport vessels in Pearl Harbor; and additional funds for Hawaii-based military medical facilities.

A House-Senate report specifically stipulated that the Maui facility be exempted from reductions that were being applied to other such computer facilities.

The \$3.5 million for a drug offenders' boot camp in Cook County originated with a request by the sheriff to then-House Ways and Means Committee Chairman Dan Rostenkowski (D-Ill.), according to a congressional source.

Rostenkowski arranged for language to be inserted in the defense bill while it was before House-Sen-

ate conferees—after the measure had already been before the House and Senate for a vote.

The conferees directed "that the Department of Defense provide assistance to the county sheriff's office in the planning of a military-style regime and curriculum at the facility."

In a similar, if more traditional vein, then-Senate Minority Leader Robert J. Dole (R-Kan.) arranged to earmark \$11 million in the same defense bill for the Army to purchase additional executive jet aircraft from a Kansas corporation that produces Lear jets.

"It's like a disease," said McCain. "It's never static. It gets worse or you kill it."

McCain complained during a Senate floor debate March 16 that the current round of budget cuts "does not rescind Defense Department support [\$15.4 million] for the Olympics and other sporting events . . . does not touch congressional add-ons for excess [National] Guard and Reserve equipment, and does not rescind any of the nearly \$1 billion in congressionally added military construction projects, much less funding for projects on bases slated for closure."

As budget rules have clamped ceilings on small, non-defense appropriations bills, the annual defense appropriation bill increasingly has been viewed as a bank of last resort for programs and projects once handled in those smaller measures.

For example, the Bureau of Land Management used to handle the roundup of wild horses on the White Sands proving grounds. The animals

SEN. DANIEL K. INOUE

... defense bill add-ons help his state

would be turned over to New Mexico prisoners to be broken and sold. BLM discontinued the program last year because it was too expensive, according to a spokesman for Sen. Pete V. Domenici (R-N.M.).

Domenici, who chairs the Senate Budget Committee, and New Mexico Rep. Joe Skeen (R), a member of the House Appropriations Committee, collaborated to get the \$1.5 million put into last year's defense bill to pick up the slack, the spokesman said.

Domenici arranged to have \$20 million added to the same defense bill for an additional neutron accelerator project at the Los Alamos Laboratory in his state, after money appropriated in the energy spending bill ran out last year.

"There was no other place to go," said a congressional aide.

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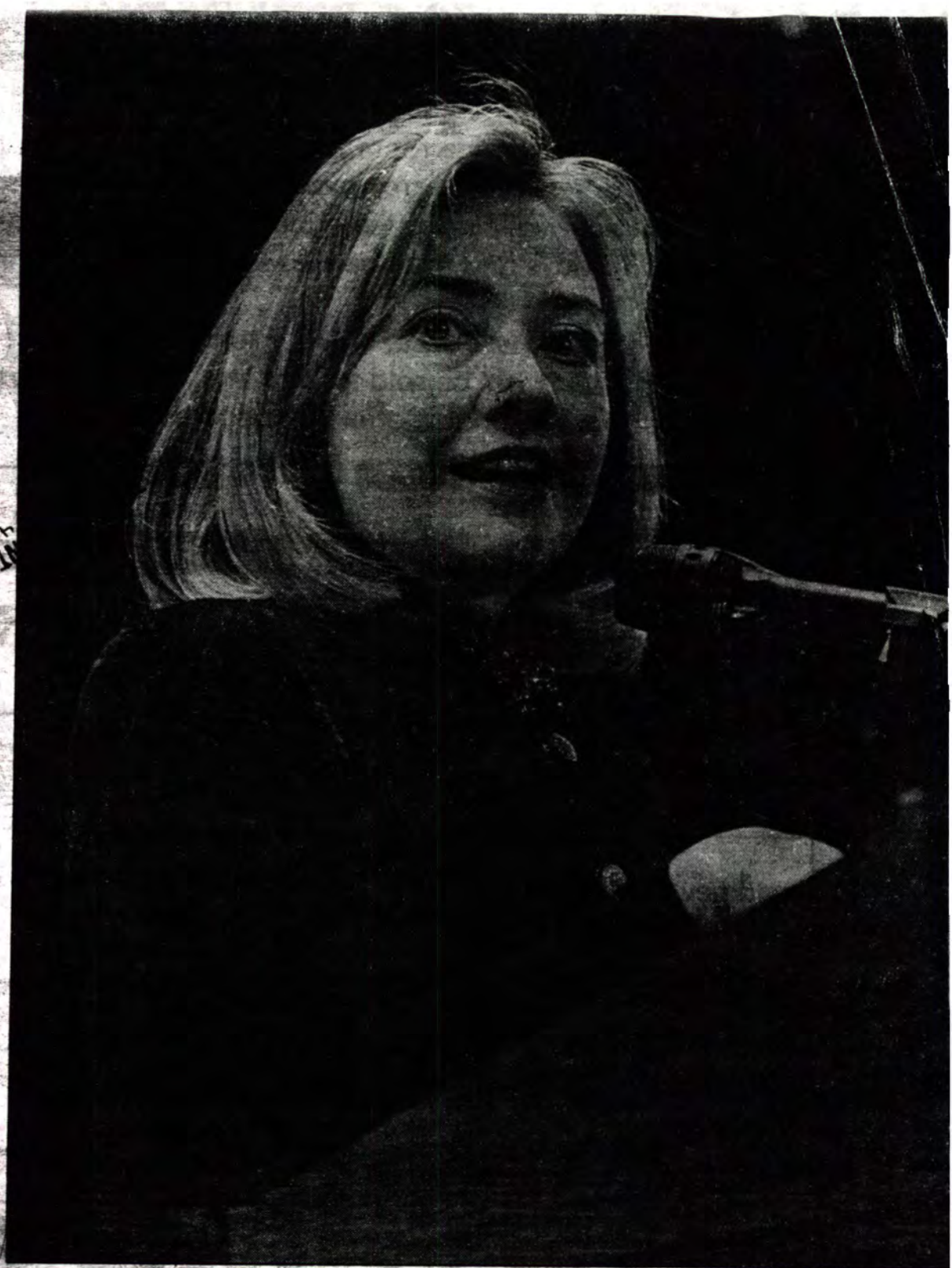
FIRST LADY VISITS

Hillary Rodham Clinton received a warm welcome Wednesday morning when she visited Maine East High School. The first lady toured the school and visited with some of the students. Story on

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Ian Landham/Dinner Drive

THE PRESIDENT HAS SEEN 4/14/95

First lady under fire for past wrongs or future rights?

The media that barely noted scandals of the Bush family while George reigned now paint Hillary Rodham Clinton as a cross between a cattle rustler and a junk-bond queen — based on 15-year-old muck.

So far, no one's found anything awful about the first lady parlaying \$1,000 of her own money into \$100,000 in the commodities market. If a guy had done it, he probably would be hailed as a genius.

Some in the media have rushed so fast to prove Hillary and Bill unethical before the facts are in that they're falling on their faces. *Newsweek* said the first lady didn't put up her own money for the commodities deal, but docu-



BARBARA REYNOLDS
COLUMNIST

ments showed she had. Then *Time's* cover carried a picture implying Clinton and aide George Stephanopoulos

were in crisis over Whitewater. *Time* didn't say the picture was shot last year and was unrelated to Whitewater.

Most certainly, it's the press' job to probe ethics of public officials, but treatment of the first lady seems odd compared to the kid-glove approach given the Bush family.

Not many newsmags, except *Mother Jones*, headlined the scandalous business deals of Bush's three sons. They were "building private fortunes, lining their own pockets and engaging in schemes that cost taxpayers hundreds of millions," concluded the 1992 article by Stephen Pizzo.

If the press wants to write about a sweet commodities

deal, why forget Neil Bush, who as a director of Silverado made \$32 million in loans to partner Ken Good, who loaned Neil \$100,000 to play the commodities market, court records obtained by Pizzo show.

"Both Neil and Hillary took a risk in commodities, but Neil's loss was erased by the taxpayers when his partner failed to repay his Silverado loans and the S&L went bust. That didn't happen with Hillary," says Pizzo, author of *Inside Job*, an expose on S&Ls.

Misdeeds at Silverado cost taxpayers \$1 billion — a huge sum compared to the \$50 million loss at the Madison S&L at the center of Whitewater.

Even William Seidman, who oversaw the S&L bailout for Bush, raised questions in his book, *Full Faith and Credit*, about the press missing the story of the White House intervening to protect Neil Bush from prosecution.

Does this double standard reflect an anti-Hillary bias by some who want to block her progressive policies? Some of her critics are writing angrily about her plans to reform health care and her help in getting women and people of color jobs they think should go to white males.

I wonder if the first lady is under fire not because of the past but due to fears she might do right in the future.

Reynolds

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Wisconsin tests welfare with a limit**By Rogers Worthington Chicago Tribune**

FOND DU LAC, Wis. Here's where the rubber meets the road on Gov. Tommy Thompson's "two-years-and-you're-out" Work Not Welfare reform.

Wisconsin is the only state experimenting with an end to cash benefits after 24 months with no safety net of public sector jobs for those who don't find work.

Critics of the plan will be watching it for casualties. And Fond du Lac's AFDC-dependent single mothers are bracing for it with the mixed emotions of novice bungee jumpers.

"I've always wanted to do it. Now I don't have a choice. The time has come. I've got to do it ... I just needed that push," said Rachel Ritocco, 24, a mother of two who has been on and off Aid to Families with Dependent Children since 1990.

The 24-month clock began ticking in January for newly enrolled single AFDC mothers in the two Wisconsin counties, Fond du Lac and Pierce, selected for the Work Not Welfare experiment.

The Republican welfare reform working its way through Congress allows states to impose time limits on benefits of any length up to five years.

"It now seems possible that Congress may go ahead and give all states the authority to impose time limits, even though there is no experience with what happens to families at the end of the time limit," said Mark Greenberg, a public policy analyst at the Center for Law and Social Policy in Washington.

While there is no experience, there is an abundance of concern.

"My worst fear is that people will come in and sign the contract and still believe there is going to be a safety net somewhere for them, that they can't be cut off... and at the end of the two years, they'll not have the skills and experience to get a good job," said Cyrina Kahut, a caseworker with Fond du Lac County's department of social services.

Another concern is that whatever might succeed in Fond du Lac may have no application to urban areas, where welfare is far more prevalent.

Fond du Lac has among the lowest unemployment rates in the state, 3.5 percent; virtually no minority population beyond 60 or so Hmong families from Laos, and a small AFDC caseload fewer than 700 last year. Work Not Welfare gives enrollees a monthly cash sum in place of and equal to their food stamp allotment and AFDC benefit. For a single mother of two, that totals \$775

a month. They also receive medical coverage and child-care costs, which continue for a year after the two-year cutoff of cash benefits.

Anyone who gets a job during the two years gets to keep most of the cash assistance and all the support benefits. Lack of a job means working at a community service job for cash benefits.

For that single mother of two it comes out to 42 hours a week (\$775 divided by \$4.25, the minimum wage). For a mother of three, who gets \$927 a month, it would be 50 hours a week.

"It's to their advantage to get into the job market as early as possible so they have time to progress in the system before benefits run out," said Edward Schilling, Fond du Lac County's director of social services.

One of the program's surprises is that more than a fourth of new AFDC applicants have opted not to enter it, but instead to take one of the private sector jobs listed by the program or seek to survive on spousal child-support payments and food stamps.

"They don't want to use up their (cash) benefits," said Chris Schmitz, employment training and economic support manager for the program.

Most of the private sector jobs the women will get through the program are entry-level positions that pay

only slightly more than minimum wage.

"In three years they'll still be getting \$6 an hour, and paying out as much as \$5 an hour for child care," worries a Fond du Lac social worker. "They'll be no better off than they were before."

Training and remedial education are available in the first year of Work Not Welfare. But with few exceptions, aid recipients are expected to be in a job of some kind by the second year.

This is a marked departure from the educational opportunities available under the old AFDC program.

Charlotte Hoffman, 27, raised her 5-year-old daughter and attended college full-time with the help of AFDC and an array of student loans. The loans have left her \$30,000 in debt, but she is completing her teaching certificate in education and plans on teaching grades 6-12 in an inner-city school.

"That option (going to college) is gone, and it's really sad," she said. "What if someone wanted to be a chemist? They can't do that now. It's basically all going to be dead-end jobs."

Even for those who want to complete a two-year course of education, there are barriers. "The plan is to have them in one-year training and one year looking for, or in, a job," Schmitz said.

Most new AFDC applicants, however, sign up for Work Not Welfare's community service jobs in offices and other not-for-profit work situations.

"They feel they can't pinpoint a career area, or they can't choose. The only job they've ever done is child care or waitressing," Kahut said. "We encourage them, 'Take a risk, try one of these jobs, something you never thought you had a chance to do before.'"

(STORY CAN TRIM HERE)

Such a choice lies ahead for Rachel Ritocco, who has done factory work in Racine, her hometown. She recently completed a 10-week crash course in secretarial skills, knows computer software like WordPerfect and Lotus 1-2-3 and would like office work. But first she says she would like to take more computer courses.

"Honestly, I don't know what I'm really going to do," she said. She worries about not having a car to get to work or to take her 2½-year-old son to day care. And she worries about giving up her income \$700 last month from a small day-care business she has developed in her home.

"It's got to be something that's worth my while to give this up," she said.

Kahut encourages her clients by telling them there are rewards beyond a paycheck to entering the work force.

"Instead of someone grabbing on their pants all day and being called 'Mommy, Mommy, Mommy,' they are called Sue and Jane again," she said.

"They're going to get some of their independence back and still be a quality person."

Nuclear poker, North Korea-style, resumes this month By Merrill Goozner Chicago Tribune

TOKYO Nuclear poker, North Korea-style, resumes this month, with the isolated communist regime using its hidden atomic-bomb card to raise the ante.

In recent weeks, North Korea's leaders have threatened to restart their plutonium-generating nuclear power plant to win more concessions from a nervous West. Their demands suggest they are attempting to drive a wedge between the U.S. and South Korea and keep South Korean technology and its experts out of the North.

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Larger Small Businesses Staying Away from White House Conference By Peter Key, The Indianapolis Star Knight-Ridder/Tribune Business News

Apr. 3--Indianapolis businessman Louis B. Zickler's real-estate consulting firm, the Horizon Group, has one full-time employee: Zickler himself.

That puts him at one extreme of the U.S. Small Business Administration's definition of a small business, which is a company with 500 or fewer employees.

But Zickler is typical of the 1,825 delegates to the White House Conference on Small Business in Washington who will converge on Washington, D.C., in June.

"A lot of people came from the national association of the self-employed," said John R. Bates, assistant director for economic development for the SBA's Indianapolis district office.

And many others head companies that, while they have more than one employee, are still on the small end of the small-business spectrum.

For example, Sharon E. Arnold employs 12 in her Northeastside construction firm, A-Unique Design & Build Co. That, she said, makes her a big employer compared to the other 36 conference delegates from the Hoosier state.

"Most of them are smaller than I am," she said. That's true nationally as well. "The majority of the firms that are participating have between three and six or seven employees," said Kevin Winston, the conference's deputy communications director.

Is that good, bad or indifferent? "I don't think it's a problem," Zickler said. "But I guess it depends on who's answering the question."

It certainly does. Large Indiana small businesses don't appear to be storming the conference ramparts demanding representation. But nationally, there's some grumbling going on.

The conference is meant to convey to legislators the policy wishes of small businesses. It has a good track record. More than two-thirds of the recommendations from the first conference, in 1980, became law, and 43 percent from the second, in 1986, were passed as legislation.

But some advocates of larger small businesses say the conference focuses too much on micro-businesses and not enough on their companies.

George Gendron is editor in chief of Inc., which annually publishes the Inc. 500, a list of America's fastest-growing companies.

To be considered for the list, a company has to increase its revenues an average of 20 percent a year for five years. But Gendron said the slowest-growing company on the list averages around 500 percent annual growth and the top company's growth rate can reach 45,000 percent.

Many of those companies fit the SBA's definition of a small business. In fact, Gendron said, they provide much of the job growth attributable to all small businesses.

"For a long time now, we have been arguing that these are the companies whose voice really needs to be heard on Capitol Hill," Gendron said.

If they're going to make it heard, it's not going to be through this year's White House conference. By all appearances, the large small businesses are staying away in droves.

They are "absolutely, positively clear in their mind that this is not a forum for them," Gendron said.

That's not the fault of conference sponsors. "I know it's the goal of the White House Conference staff to promote it so that there will be an equal balance" in the sizes of small businesses participating, said Christy Huston, the Indiana delegation's executive director and the Indiana Chamber of Commerce's manager for economic and business development.

Still, Gendron and others think the conference's recommendations will address primarily the concerns of the smallest small businesses. And those are often different from the concerns of companies on the Inc. 500.

Zickler agrees. "A business owner who's got a business of fewer than 50 employees is going to look at their business differently than a business owner who has a business of 400 employees," he said.

But Bates said all small businesses face many of the same problems—just to different degrees. And he doesn't think the typical Inc. 500 company is as bereft of representation as Gendron says.

"When you get those larger small businesses, they usually are belonging to trade associations or have an easier time of catching their congressman's ears one on one," he said.

A-Unique Design & Build's Arnold said the Indiana delegates are trying to address the concerns of small businesses of all sizes. She said they are meeting with small-business owners from across the state and will factor their views into the recommendations they will present to the Midwest regional meeting of the White House Conference in Chicago in May.

That still gives the state's fast-growing businesses a chance to get their two cents in. And Winston, of the White House Conference staff, said they should take advantage of it.

"We will address their ideas," he said.

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Haiti's Wealthy Elite Still Major Force (Port-au-Prince) By Patrick J. Sloyan— (c) 1995, Newsday=

PORT-AU-PRINCE, Haiti Among the Haitian VIPs mixing with President Clinton on Friday were some of this impoverished country's richest people. In U.S. Embassy circles they are known as MREs—the morally repugnant elites.

"They control everything," said one veteran American official who spoke on condition of anonymity. The official is involved in an often bitter dispute over U.S. policy toward a handful of mulatto families who have paid off Haitian governments while extracting millions from a society where the average worker is lucky to make \$6 a day.

In return, the MREs have amassed fortunes by avoiding taxes so that President Jean-Bertrand Aristide and previous governments have had little revenue to finance government services. For decades, Haiti has been almost totally dependent on religious charities and U.S. and other international aid to fend off hunger and epidemic disease.

Based on U.S. documents and interviews with Haitian scholars, business and political leaders as well as U.S., Latin American and European diplomats, the elites today are at the core of "The Mix," the Haitian euphemism for corruption. The Mix has left most of the 6.4 million population without roads, schools, hospitals, housing, public transportation, electricity, sewage or a safe water supply.

Breaking the wealthy elite's grip on government and business may be Aristide's most dangerous gambit. When he tried it before, the elites underwrote Gen. Raoul Cedras' 1991 coup that sent Aristide into exile until Clinton restored him to power with U.S. military force last October.

Ironically, the elites benefited once again with the bloodless U.S. invasion of 21,000 troops that has cost an estimated \$900 million of U.S. money. Piers, fuel storage tanks, warehouses and other property used by the U.S. military provided the wealthy who owned it with a windfall, U.S. embassy officials said.

While in exile in Washington and since his return to office, Aristide has been pressured by U.S. government officials to seek an accommodation with his wealthy opponents. "It's part of the democratic process," said a senior U.S. official. "They are Haitians, too."

But some Haitian experts believe the wealthy elite will soon corrupt Aristide government officials and derail any efforts to finance even modest public welfare programs.

"The stage is being set for a return to business as usual," said Professor Anthony Maingot of Florida International University in Miami. In a recent article in Current History, Maingot argued the failure to prosecute the wealthy elites and those involved in drug smuggling is a signal that there are no penalties for criminal behavior in Haiti.

(Begin optional trim)

Many of the MREs are descendants of 200 German and other immigrants who took control of the country's international trade in the 19th century and exploited Haiti throughout the 20th century.

Most notable are the families Mev, Aera, Brandt, Madison and Bigio. They refused to be interviewed by Newsday or were out of the country and unreachable. But some business associates say the Mevs have actively supported Aristide's current reforms.

"The Mevs know things must change sooner or later," the businessman said.

Among them, the elites control Haiti's supplies of petroleum, telephones, electricity, cement, sugar, flour, plastic, soap, cooking oil, steel and iron.

With little economic competition from outside the elites, the hemisphere's poorest nation pays some of its highest prices for gasoline, oil, electricity and

telephone service. According to Aristide's aides, the elites pay few, if any, utility bills, depriving these facilities of income needed to halt daily outages and phone-call frustration.

Ostensibly, Haiti's utilities and major industries have been owned by the government since they were nationalized by President Jean-Claude "Baby Doc" Duvalier between 1972 and 1982. But Baby Doc, son of President Francois "Papa Doc" Duvalier, quickly licensed the nation's economy to the wealthy elite. For example, the group that grew and refined most of Haiti's sugar obtained an exclusive license to import refined sugar. "They were supposed to pay excise taxes and custom duties to protect domestic sugar prices," said one Haitian insider. "But that was a joke."

Instead, the wealthy group soon halted the planting and harvesting of sugar on Haiti, destroying the income for thousands of workers and rural villages. Major sugar mills were closed and today are covered with tropical vines. The group built a new marine terminal where customs inspectors were banned.

(End optional trim)

But the wealthy elite may be losing their grip on Haiti. Their muscle, the 7,000-member Haitian Army, has been disbanded and Aristide plans only a force of 1,500 for border security. Even more important are plans by the world financial community to support Haitian government efforts to attract more business.

With U.S. and World Bank support, Leslie Delator, director of Haiti's Central Bank, has taken the first steps toward privatizing state-owned properties now controlled by the MREs. According to Haitian officials, there already have been feelers from French and German and U.S. companies interested in bidding for the telephone company, petroleum industry and the electric company.

Central banker Delator has been openly critical of the wealthy elite. "They're going to have to start paying taxes," Delator said in a recent interview. And he wants to ban the MREs from bidding on privatized utilities for at least five years.

In exchange for international loans, the Aristide government is required to improve tax collection. It's all part of a \$1.2 billion aid program, including \$200 million from the United States, that will be pumped into Haiti in the next 18 months. Most of it comes from European countries, including the European Community.

At a high point in 1987, 130 foreign-controlled assembly plants employed 50,000 Haitians. Since the coup and U.N. embargo, only 40 of those plants, employing 15,000 workers, are operating.

Aristide has promised reduced utility and customs charges as well as tax incentives to foreign companies who commit to Haiti by July 1.

But with such a crippled infrastructure, rebuilding Haiti's economy, where the unemployment rate is at least 75 percent of the work force, will be slow going. In the meantime, Haiti's mulatto powerbrokers are likely to remain in control.

One wealthy businessman, a critic of his elite contemporaries, hopes for eventual change but remains pessimistic.

"No matter what happens, the families always seem to prevail," he said.

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mobility. Compared to American-born minority parents, they have a greater tendency to relieve their children of household chores to give them more study time, encourage older siblings to tutor younger children, and restrict television viewing, the study found.

These findings reinforce conclusions reported recently by other immigrant experts that contradict the popular belief that assimilation leads to greater success in school and in life.

"A number of these studies suggest there is a very funny paradox at work," said Marcelo Suarez-Orozco, visiting professor of human development and psychology at the Harvard Graduate School of Education, whose studies have compared the attitudes and aspirations of Mexican children with successive generations of Mexican migrants to this country.

"New immigrants in general ... are reported to be very eager to do well in school, to learn English, as a way of enhancing their status. But there is this paradox that the longer they are in the U.S., the more ambivalent they become in their attitude toward school."

Suarez-Orozco, whose permanent post is associate professor of anthropology at the University of California, San Diego, says the emerging research indicates that the academic difficulties encountered by many Latino, black and Asian youths may have more to do with their negative experiences as ethnic minorities in this country than with the cultural systems their families brought from their native lands.

The optimism of immigrant parents and children stems from their ability to contrast their new lives against the hardships of life in their old country. But native-born children, says Suarez-Orozco, have only the standards of mainstream American society to measure themselves against. They run a greater risk of viewing their future through a "prism of deprivation" and developing a skepticism about the advantages of schooling.

The positive view of the educational attainments of immigrant children may surprise leaders in the anti-immigration movement, who argue that newcomers and their offspring are straining public resources and driving down the quality of life.

Glenn Spencer, founder of a Los Angeles-based group that supports California's Proposition 187, which restricts access to public services for that state's illegal immigrants, said he is "totally skeptical" of the findings.

"With California receiving such a large percentage of immigrants from around world," he said, "we should be experiencing outstanding performances in our schools. I don't see it, do you?"

But studies by Tienda and others strongly suggest that the debate over immigration is poorly framed, Suarez-Orozco said. "Perhaps the question is, are we (America) still good for immigrants? It may be that assimilation is dangerous to your health."

(Optional add end)

The University of Chicago study is one of the largest scale examinations of educational progress to focus on several generations of minority children. Published in the March issue of *Social Science Quarterly*, it drew upon a representative sample of 24,599 students from 1,052 randomly selected schools nationwide. The students were eighth-graders in 1988.

The higher achievement levels of the first- and second-generation children were clearest among Asian students, Tienda and co-author Grace Kao, a University of Chicago graduate student, found.

First- and second-generation Asian eighth-graders scored about five points higher on standardized reading and math tests than third-generation Asians. On a 4.0 grade scale, the first and second generations also rated about half of a grade point higher than their third-generation peers.

First-generation black students, who were largely immigrants

from Caribbean nations, attained higher grades and math test scores than all native-born blacks, and second-generation black youths had the best reading scores.

Among Latinos, the researchers found that generational status did not markedly improve scholastic performance. But first- and second-generation Latino youths were more likely to express the desire to graduate from college than their third-generation counterparts.

Small Business Affirmative Action Program Under Fire (Washn) By David G. Savage- (c) 1995, Los Angeles Times=

WASHINGTON Kavell Bajaj, not surprisingly, speaks well of the federal government's oldest affirmative action program, which steers contracts worth \$4.3 billion a year to "small disadvantaged minority enterprises."

A native of New Delhi, she came to this country in 1974 to marry a fellow Indian, a brilliant computer engineer who was rising in the ranks of Ross Perot's Electronic Data Systems Corp.

Not content with being a housewife, she started a business in her Bethesda, Md., home. Her first ventures, including a stint as an Avon lady, were none too successful, she says.

But in 1986, Kavell's new computer services business was certified as a disadvantaged minority enterprise by the Small Business Administration, and that allowed her to win no-competition government contracts of up to \$5 million.

With her husband and other top-flight computer engineers working as her employees, he made too much at EDS to be certified on his own. Her business boomed. Last year, her company, I-Nat, captured \$235 million in contracts for computer networking in half a dozen federal agencies.

"I think it's a great program," she said of the SBA's set-aside program for minority businesses. "It gave me an opportunity, and I certainly used it well."

These days, the phenomenal success of "disadvantaged" entrepreneurs such as Bajaj rather than testifying to the effectiveness of one brand of affirmative action is fueling demands that the minority preference programs be reformed or repealed.

Began in 1969 under President Nixon with the intent of inspiring "black capitalism" in the nation's depressed inner cities, the program's big winners instead have been high-tech companies that occupy the glass office towers along Washington's Beltway, according to government auditors.

Enriched by no-competition contracts, several dozen capable and highly successful companies have made millions of their owners, the auditors say. However, the minority enterprise program has done almost nothing to spur business development in the predominantly poor and black neighborhoods of the nation's largest cities, they add.

In other years, the controversy over the SBA's "8a" program would have been confined to the relatively small community of contractors who closely track federal procurement. But this year, it has come into the public spotlight as official Washington begins to rethink the many programs that fall under the rubric of "affirmative action."

Last month, Senate Majority Leader Bob Dole, R-Kan., once a supporter, took to the Senate floor to proclaim that the minority enterprise program "should be repealed outright."

"There are other, more equitable ways to expand opportunity, without resorting to policies that grant preferences to individuals simply because they happen to be members of certain groups," Dole said.

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This is a new
publication

At Dole's urging, the Senate Small Business Committee will hold hearings on the program Tuesday.

The Supreme Court also is reviewing the program to see whether it is constitutional. The Small Business Act says that at least 5 percent of all federal contracts should go to companies owned by "social and economically disadvantaged individuals." The agency defines disadvantaged persons as those who are "black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans and subcontinent Asian Americans."

However, a white road builder from Colorado, who submitted the low bid but lost a contract to do guard rail work along a federal highway, contends this racial and ethnic preference violates his rights to the equal protection of the laws.

President Clinton also has ordered a White House review of the government's programs that give funding preferences based on race or ethnicity.

(Optional add end)

The SBA's program is both the oldest and largest effort to steer business to minority companies. At Dole's request, the Congressional Research Service found 168 examples of "racial and ethnic preferences" written into federal laws and regulations, but only two of the efforts have a broad impact. The employment rules governing federal contractors have forced thousands of private businesses to adopt "goals and timetables" for hiring minorities. The other is SBA's minority enterprise program.

Although it has operated in virtual obscurity, the SBA program has been sharply criticized over many years by the General Accounting Office and the SBA's own inspector general.

The main criticisms include the following:

Too much money is awarded without competition. The program says it seeks to develop minority businesses and foster their "competitive viability," but 81.5 percent of the money awarded last year went out in no-competition contracts, the GAO says. The rest was awarded through competition limited to minority companies.

Too many wealthy people are labeled disadvantaged. Last year, SBA auditors checked 50 of the minority companies and found 35 people with "a net worth in excess of \$1 million."

Too much money is concentrated among too few companies. Last month, GAO auditors told a House committee that 50 of the 5,293 companies that are certified as minority enterprises received more than one-fourth of the contract dollars awarded last year. At the same time, 56 percent of the businesses did not win any contracts.

A large percentage of contracts go to businesses circling the Washington area, even though the program was intended to develop small minority companies in major U.S. cities. In an audit of 1990 awards, the GAO found that more than a third of the \$3.8 billion in contracts went to "8a" companies in Maryland, Virginia and the District of Columbia. Meanwhile, minority businesses in New York, Pennsylvania and Michigan received less than 1 percent of the total. Thanks to the defense industry, California-based companies placed first that year, but the state's \$775-million total stood well behind the amount awarded to Washington-area companies.

Minority workers do not always benefit. The SBA regulations do not require that a minority-owned business employ minority workers. "I have seen 8a companies with 400 people on the payroll, and they may have one black or Hispanic employee," said Terry Miller, president of a government consulting company in Great Falls, Va.

Virginia's Tough Welfare Law Tests Public Policy Mettle (Richmond) By Marlene Cimon-

(c) 1995, Los Angeles Times-

RICHMOND, Va. Beginning July 1, Virginia will implement one of the toughest new welfare laws in the country, forcing recipients to go to work within 90 days of receiving their first check, and will cut off their benefits after two years.

But the jobs that could mean the end of dependency for some of Richmond's welfare mothers are just over the county line, in suburban Chesterfield and Henrico, and the buses from downtown Richmond hardly ever go there.

And the education many of these women seek to escape a life of dead-end drudgery often is gained by attending classes for up to three years at J. Sargent Reynolds Community College. Now some may have to drop out, pressed to get a job any job fast.

The new law exemplifies of the kinds of restrictions expected to be imposed nationwide by a reform-minded Republican Congress will bring unprecedented changes on a scale that many professionals working in the welfare system had yearned for as they endured the old way's infuriating contradictions.

But the specifics of those changes and how they actually will connect with a collection of trouble-plagued lives and logistical problems are leaving social workers confused.

As much as any other single factor, these workers' ability to get the best and prevent the worst from imminent change may determine whether the movement is a success or a disaster.

As director of the city's department of social services, it is Michael Evans' responsibility to figure out exactly what Richmond's welfare recipients have to do now and how his employees can help them do it.

"We can implement (the new law)," Evans said. "But it's going to be the biggest challenge the system has ever seen."

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In preparation, the department is moving away from the specialization that has dominated the system since the 1970s and is returning to the classic model of the caseworker. Each recipient will deal with only one social worker for everything, instead of one for each program she is enrolled in. Also, caseworkers will spend more time in the neighborhoods rather than meeting clients in the office.

Administrators hope the closer hands will ease the transition and help families reach the reform movement's goal of self-sufficiency, rather than falling off in midstream into crime or destitution.

But that internal change is just the beginning. Richmond, the state capital located 100 miles south of Washington, has a population of about 203,000, about 10 percent of whom receive Aid to Families With Dependent Children.

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When children are subtracted, Evans' staff is left to come up with 3,500 jobs for able-bodied recipients in the area jobs that can be done with an often-limited education and yet pay enough to support them.

As Evans described the situation to city officials, George Musgrove, the assistant city manager for human services, drew the grim conclusion: "There's no way we can accomplish this alone."

In the weeks since then, officials have struggled to come up with a plan that will produce results soon matching people up with immediate opportunities as well as long-term changes that will steer poor families away from a collision with the new penalties.

A key part of the emergency effort has been an appeal to community-business leaders to round up jobs for the new

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

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MEMORANDUM FOR THE PRESIDENT

FROM: Robert B. Reich

SUBJECT: G. I. Bill for America's Workers (update for the Atlanta Conference)

Here is a status report on the G.I. Bill for America's Workers, the training reform initiative that forms the fourth element of your Middle Class Bill of Rights proposal.

Summary

The dominant Republican stance on job-training policy so far has been a "block and cut" approach, bundling programs into block grants to the states while shrinking resources. This is primarily a budget-cutting exercise, with weak prospects for real reform. Unless we succeed in deflecting the momentum behind this approach, the most likely outcome for job-training policy in the 104th Congress is a combination of deep budget cuts, some program consolidation, and (in the long-running dance of federal-state interaction on job training policy) a step or two in the direction of greater state-level discretion.

Our strategy is to trump block grants with a more radical empowerment model -- based on training vouchers, customer-oriented institutional reform, and labor-market information -- which follows through on the Administration's reinvention campaign and which thoughtful Republicans will have difficulty opposing. Staff from Labor, Education, OMB, and NEC are working closely together to implement this strategy. We can report some success -- but there's a long road still before us.

Essential Elements of the G.I. Bill

There are four essential elements of the G.I. Bill.

- **training vouchers** for laid-off and low-income workers;
- **one-stop centers** for delivering job-placement, counseling, and other services;
- **market information** -- including "Consumer Reports"-type data on training providers, as well as information on the demand for skills and on job openings -- to make a choice-based training system more efficient;

- for youth--who can't be fully folded into a market-driven system -- **consolidating separate training programs** into the emerging **school-to-work** system, with its emphasis on work-based learning.

There are different definitions of each of these elements, of course, and differences in balance and emphasis. There are other features we would very much like to see, as well as features we would accept with great reluctance -- if at all. But any ultimate legislation containing these four elements can be declared a victory for the Administration.

The State of Play in Congress

- A voucher-based training proposal delivers on a major reinvention theme, and makes Republican block-grant proposals seem timid by comparison. But it is also quite controversial among segments of our own party. So developing a critical mass of Democratic support was our first goal. Early in the 104th Congress, Senators Kennedy, Breaux, and Daschle submitted a bill embodying the voucher approach.
- Senator Kennedy and Representative Clay, the senior Democrats on our authorizing committees, have agreed to work closely with us on this agenda -- and are generally acting on that promise. We are approaching final agreement with Kennedy's staff on the specifics of a united front on youth program reform.
- Representative McKeon, who chairs the Lifelong Learning subcommittee of the House Education and Economic Opportunity Committee, has agreed to a Republican-led but bipartisan process to craft, by May 1, draft legislation which I believe is likely to include all four essential elements of the Administration's approach.
- I have met repeatedly with Senator Kassebaum, the Senate committee chair and a major proponent of the block grant approach. (Alice Rivlin has met with Senator Kassebaum on this agenda as well.) Our differences with her are narrowing. She has embraced the "one-stop" idea, and is generally sympathetic to our view that School-to-Work should be the bedrock on which youth training programs rest. And while she remains wary, her opposition to vouchers appears to be diminishing.
- ✓ Numerous staff-level contacts and some brief direct conversations with Speaker Gingrich have revealed the Speaker's considerable affinity for our voucher-based approach to adult job training. I am pushing hard on this front. It would, obviously, be very helpful to gain the Speaker's endorsement for the voucher model as an alternative to simple block grants, and I am hopeful of achieving this.

I will keep you informed as this process plays itself out in the weeks to come.

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McLarty; Federal Highway Administrator Rodney
Slater; and Senators Pryor and Bumpers, who couldn't
join us today, but for all they have done]

Trout
Cumlaugh

Whitlock
BDS KLU
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I have many fond memories of ASU. But one I'll never forget is the first commencement speech I gave here, back in 1977, when I was Attorney General. Because of rain, it had to be held in the old fieldhouse, and it was so hot in there that I gave what I think is the shortest speech of my career -- only six minutes.

That's when I started pushing the State Legislature to help all of you build a Convocation Center -- with air

conditioning. →

1st term - Comm & Int'l Bldg
2^d term - Convocat
c'87. - Bldg
90 - Bldg
91 - Brown - Age Ed Comp

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Many more
Students

I don't know how many football and basketball games I saw the Indians play here. And now, one of the Indians has become quite a celebrity.

Arthur Agee is a reminder to all of us that by working hard and fighting for your dreams, they can come true.

That is why it is such a great pleasure to be here to help dedicate this state-of-the-art library facility. It is the realization of many dreams for ASU. And I am especially thrilled to hear that part of this new tower has been set aside for a Delta Studies Center.

Glad to be part of it → approves funds for
Dean Ellis

The Delta has always had a special meaning for me. One of my proudest achievements during my years as governor is the work that we did on the Lower Mississippi Delta Development Commission.

We issued a report entitled "Realizing the Dream...

Fulfilling the Potential" -- which was really what the

Delta Commission was all about. ~~When we took a look~~

~~at the Delta region, we saw the future of our people,~~

~~without the necessary tools to succeed. And what we~~

~~recommended was that the local, state, and federal~~

~~governments needed to work together in partnership to~~

~~prepare the children of the Delta for the challenges and~~

~~realities of the 21st century.~~

△ → poor → poorest (richer spin)

We wanted to make sure that the people of the

Delta had the opportunity to fulfill the American

Dream.

That's why I ran for G → why I
won for PRes —

Ark → Q: did we catch up to Neth Country
~~light~~ → relentless attempt to Ed, Edw, Qualify
 to pickup →

80s → Hime.
 82 → Swing
 → Edw
JD/Gordon-M
we're
(92) - 1st

And that's why I ran for President -- to ensure that all

Q: Am I for all Americans
~~Americans had that opportunity, after twelve years of~~
~~jobs / #ty / insecurity~~
~~government not doing enough to help the American~~

Some prescription < Ed / Se / Pickup
 → people.

→ Safety net → Edw → MC → Education
SS (Med)
Port, med, Food St
Not Wals < Pol / Partis / Sp list

I've spent two years in Washington trying to lift

our economy and bring our people together, much as I
 did here in Arkansas. There is a great debate now in
 Washington about how to do that. One view is that
 big, one-size-fits-all government can fix all of our
 problems. On the other side is the view that
 government is the source of all problems. ~~In the real~~
~~world our choices aren't that black and white.~~

~~We have to make judgments, we have to have goals and we must work in partnership.~~

False Choice. ~~Yes & No~~

I believe that as we approach the end of the century, the national government has four roles:

- ↑ justice → growth / shrink
- ① ● ~~create opportunity and demand responsibility~~
 - ● empower the American people through education
 - ● enhance the security of the American people, by making the world and our communities safer
 - ● change the federal government so it is smaller and less bureaucratic ↑ cutting yesterday's government to solve the problems of today and tomorrow ^{Responsa} and to giving something for nothing

(1) ~~Export~~

When an effective but limited government does
~~to Strat & Def, I tellu, trade, & turkys -~~
 these things, we're going in the right direction. In the

last two years, our nation has produced over six million
 new jobs. In Arkansas alone, the unemployment rate

dropped from 6.6% to 5.3%, ~~70% more new jobs were~~
~~created than during the previous four years and over~~
 25yr — Hi wage 5yr

200,000 Arkansas families received a tax cut with the
Earned Income Tax Credit. ~~wasn't true~~

(2)

We have increased investments in education, from
 expanding Head Start to expanding apprenticeships for
 people who don't go to college to dramatically

increasing the availability of scholarships for middle

class people to get a higher education. ~~Qual~~ → 62000 / ESER
 — ~~80000~~ / 2

③ See → Run/Tuesday → Broder → THE PRESIDENT HAS SEEN IT 200000
 → ME/Hair/Th → Cinn 4/4/95 → Pam - Pam W. EITC 200000
 - Jimmy Chae

④

We've reduced the size of the federal bureaucracy by 100,000. And we're going to reduce it by 270,000 over five years. It'll be the smallest federal

government since John Kennedy was President of the

United States. Sturm Neg | Sm Bow | Acetabli - St Loan
Person

Opport & Union →

I'd like to focus a little more on the work you do
 here -- on education. Work Unit I've tried to do nationally what
 you are doing here: empowering people to help to build
 their dreams on their abilities. It is central to making
 the American Dream possible for all our people as we
 compete in the global economy.

As governor, education was one of my highest priorities. As most of you know, the First Lady spent countless hours touring the state, listening to what people had to say about education in their county. With her efforts and the citizens of this state's working together, we were able to enact higher academic standards for Arkansas schools, require teachers to take a basic competency test, and permit parents to have some choice in the schools their parents attend.

We've worked just as hard in Washington to make last year the best year for education reform in 30 years.

We set world class standards for our schools, and gave teachers and parents the power to decide how to meet these standards. We expanded Head Start. We made college loans more affordable for millions of people -- loaning directly to students at lower costs and on better repayment terms. 139,000 Arkansas students and former students will be able to take advantage of this new direct student loan program. *[ASU is not yet a participant in the direct loan program]* At the same time, we've insisted on more responsibility: Stricter enforcement has cut taxpayers' cost of delinquent loans from \$2.8 billion a year to \$1 billion a year since 1991.

Another investment in the future I'm very proud of
 is our national service program, Americorps. ^{Steward 4750 p} 89 ~~89~~
^{Domestic Plan Corps}
 Americorps members in Texas immunized 104,000
 infants in Texas two summers ago. In my home town
 of Hope, an Americorps member is helping migrant
 farmworkers protect themselves from hazardous
 pesticides. And other Americorps members are helping
 reduce truancy in 11 Texarkana public schools by 50%.

Back in Wash, ~~some~~ in Cong say cut ed, ~~fasting~~
 to pay for tax cut or def no → I'm for def ed → 600b
 → I'm for tax cut → 1000
 → in cut ed → sublimely
 → Safe long term
 → St. Green

Back in Washington there are some people who
 want to take programs like these away. But there is a
 right way and a wrong way to cut government. Yes,
 the Department of Agriculture must be shrunk.

But we think the right way is to close agriculture field offices, not cut school lunches. Some people want to cut education to pay for tax cuts for the wealthy. We want to cut taxes to pay for education and training for middle class families. Educating our children and preparing for a strong future are goals that should have bipartisan support.

So I ask you to lend your voices and your stories to today's debate. So much of what matters to me and the strength that I have, I draw from you -- the people of my home state. This area, school and library are proof that we can make progress, bring together our people and build a better future.

Thank you for reminding us all that our challenges can become great opportunities and our dreams can become realities.

April 3, 1995

Bill Clinton at ASU: Looking Back

Although today's visit to Arkansas State University is Bill Clinton's first as President of the United States, he has been here countless times in his previous capacities as governor of Arkansas (1979-1981 and 1983-92) and as attorney general (1977-79).

The library is the third facility at ASU for which he has served as dedication speaker.

Among his more memorable visits to ASU are these:

Feb. 1, 1992 -- As a candidate for the Democratic nomination for president, Bill Clinton was guest of honor at a campaign rally in the Reng Center just a few days before the New Hampshire primary.

Oct. 6, 1990 -- Governor Clinton presented a ceremonial state check for \$600,000 to ASU President Eugene W. Smith, prior to an ASU football game. The funds were designated for planning the library addition which is being dedicated today.

Sept. 24, 1990 -- As a candidate for re-election to his fifth term as governor, he participated in a televised debate in the Convocation Center.

Dec. 10, 1988 -- Governor Clinton was a speaker for the Legislative Weekend brunch, an annual opportunity for state legislators to visit the ASU campus.

Dec. 5, 1987 -- Governor Clinton was speaker for a brief dedication ceremony for the Convocation Center. The ceremony was a highlight of Legislative Weekend, and was held in conjunction with the first basketball game in the new multi-purpose facility.

May 8, 1987 -- Governor Clinton was guest speaker for the Spring Commencement Ceremony, the first event held in the multi-purpose Convocation Center.

Oct. 20, 1984 -- A groundbreaking ceremony for the Convocation Center featured Governor Clinton turning the first shovel of dirt.

April 18, 1984 -- During the investiture of Dr. Eugene W. Smith, eighth president of ASU, Governor Clinton was speaker for the pre-ceremony luncheon.

Feb. 20, 1984 -- Governor Clinton, at ASU to attend a basketball game with his wife Hillary, announced the release of \$1 million in state funds to the university to begin construction of its multi-purpose Convocation Center.

April 14, 1983 -- Governor Clinton was guest speaker for the dedication ceremony for the Communications/Education Building.

(Clinton Visits, Page 2)

April 27, 1979 -- Governor Clinton was a speaker for the presidential investiture of Carl Whillock as the sixth president during the first Convocation of Scholars Week at ASU. He also was one of six Rhodes Scholars from Arkansas who were honored at a reception in the Dean B. Ellis Library.

May 6, 1977 -- Attorney General Clinton delivered what is probably the shortest commencement speech in ASU history. He cut his remarks to only six minutes (by his own later recollection) because of unseasonable heat in the non-air conditioned fieldhouse (a facility which has since been razed).

THE PRESIDENT HAS SEEN

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**RADIO ADDRESS BY THE PRESIDENT
TO THE NATION
GIBBS MAGNET SCHOOL
LITTLE ROCK, ARKANSAS
APRIL 1, 1995**

THE PRESIDENT: Good morning, class.

THE CLASS: Good morning, Mr. President.

THE PRESIDENT: (What you just heard was the sound of America's future) (I'm speaking to you this

morning from the Gibbs Magnet School for

International Studies in Little Rock, Arkansas.

And I'm happy to be joined by the Principal, Dr.

Marjorie Bassa, members of her staff, and 30 of the

most wonderful elementary students, and their parents,

Good Morning class.
you could ever hope to meet.) This school and these

people are living proof that the education reforms that

were started when I was governor of Arkansas, and that

are continuing under the leadership of Governor

Tucker, are paying off.

The young people who attend this public school are getting a headstart on the 21st century. Beginning in kindergarten, they learn about other cultures and receive foreign language training. They are already acquiring the skills that will allow them to one day compete and win in the new global economy. I want to spend a few moments to tell you why I think the education and training of all our young people is the most important thing we can do to keep the American dream alive.

Washington is in the midst of a great debate today about the proper role of government. On one side is the old view that big one-size-fits-all government can provide the answers to all our problems.

Let's look at what started this debate.
 As we move toward the 21st C & the 21st Age,
~~the~~ ^{the} future will depend more
 on ~~the~~ ^{what we have & what we can have} → today creating jobs, but
 new million fast pace - but 23 stagnation ^{unstable}
 On the other is the view that government is the source
 of all our problems. <sup>useless future → soc probs
 cr drugs, famine, etc.</sup>

<sup>Real world → Oppert has seen
gov't yesterday in
today's future</sup>
 In the real world, that is a false choice. I believe
^{is what we have → Anish W. Chell}

we must chart a new course between the old way of big
 government and the new rage of no government. I

believe we need a government that does four things:

First, ^{to} ~~create~~ ^{growth but} ~~opportunity~~ ^{personal} ~~and~~ ^{grow W.C., mine} ~~demand~~ ^{U.C.} ~~responsibility.~~

Second, ~~enhance~~ the security of the American people

at home and abroad. Third, ^{More} ~~change~~ the national

^{smaller} government to make it ^{to take out of} ~~less~~ ^{but still helpful} bureaucratic

^{ordinance in spirit, future impact → more pers. upon}
~~to move this country forward.~~ Fourth, and most

important, ~~we ought to be doing everything we can to~~

^{20 i}
 help people raise their ~~skill~~ ^{skill} levels so ~~we can empower~~

^{they can}
~~to~~ ^{to} make the most of their lives.

That's what I call the New Covenant -- a partnership between Americans and their government that offers more opportunity in return for more responsibility, and a renewed sense of citizenship and community.

Earlier this week, I convened a regional economic conference at Emory University in Atlanta, where a group of economists, business and government leaders, and working Americans discussed ways to strengthen our economy and ensure a better future for our children. The one thing we all agreed on was that the countries that do the best job of developing the full capacities of every one of their citizens will be the most successful in the 21st century.

→ Higher Ed levels
essential if we are to raise inc of working
Amer → grow MG, shrink UK.

That's why my Administration worked hard to expand Head Start; to set world-class standards for our schools and give parents and teachers ~~the~~ ^{more} resources to ~~meet them~~ ^{change more local authority to decide how} to establish an apprenticeship program to prepare young people who don't go on to college to get high paying jobs.

And we made college loans more affordable for millions of students. By eliminating the middleman, lowering the cost, and offering better repayment terms, our direct student loan program is giving more young people a chance to go to college while saving tax dollars at the same time. And we're demanding responsibility in return. ^{Now stud get lower & lower cost but have to pay them back}

Stricter enforcement has cut the cost to taxpayers of delinquent loans from \$2.8 billion in 1991 to \$1 billion a year. → Let's open a region

For the last 2 yrs, we've been able to cut gov't ~~As we change and cut yesterday's government, we~~ spending, cut the def, cut hundreds of programs and ~~must remember there is a wrong way and a right way.~~ ~~But increase on F in 90,~~

~~Yes, the United States Department of Agriculture must~~

~~The ~~Department of Agriculture~~~~ be shrunk. But we think the right way is to close many in Congress think there's no diff in ed agriculture field offices and to reduce subsidies after ~~other spending. For example, ~~there are~~ There are proposals~~ worldwide negotiations, not to cut school lunches.

~~to reduce funding for the school, for public schools efforts~~ Here at Gibbs, close to 50 percent of the students to meet the nutritional goals, for National Service, ~~Amur~~ depend on those meals.

~~We provide school for young people who work at their wage in local community projects.~~

~~We don't need to cut student loans if we cut out the~~

~~Then we can use proposals to eliminate our efforts~~ middleman and make sure students honor their ~~programs for safety and drug free schools altogether and~~ commitment to pay back their loans.

~~Unbelievable to cut the college loan program!~~

Sch
Amur

McGregor

Some want to cut education to pay for tax cuts for the wealthy. ~~We want to cut taxes to pay for education~~ ^{a NC tax cut that helps families pay for} ~~and training for middle class families. Educating our~~ ^{children and preparing for a strong future are goals that} ~~should have bipartisan support -- just like the bill I~~ ^{signed last week limiting the ability of Congress to pass} ~~support, Congress has~~ ^{laws imposing unfunded mandates on state and local} ~~signed last week limiting the ability of Congress to pass~~ ^{we did Mon. H. R. 1, to Appr to con loan to help ed} ~~laws imposing unfunded mandates on state and local~~ ^{governments.} ~~we did Mon. H. R. 1, to Appr to con loan to help ed~~ ^{than any session of Cong in 30 yrs.}

~~Americans have always found common ground on~~ ^{How in this new Cong some want to cut ed} ~~behalf of the common good, and in this debate about~~ ^{the so-called quality of education} ~~education, I am confident our better angels will again~~ ^{wrong --} ~~wrong --~~ ^{prevail.}

Gibbs Magnet School is a reflection of what we ^{ought} ought to be doing in America. ~~I don't know what~~ ^{property these children belong to but do know} ~~property these children belong to but do know~~ ^{we need them all + they deserve our best} ~~we need them all + they deserve our best~~ ^{efforts to give them a shot at the future.} ~~efforts to give them a shot at the future.~~

We need to begin when they are young, training our people to succeed, and preparing them for a lifetime of learning. After all, the fight for education is the fight for the American dream.

Thanks again to all the people who are with me today. And thanks for listening.

Baer copied

P.1
THE PRESIDENT HAS SEEN
1114195

I HAVE TRIED TO BE SCRUPULOUS IN STAYING TO THE SPIRIT AND MEANING OF THE PRESIDENT'S COMMENTS. USUALLY I USED THE EXACT WORDS FROM THE INTERVIEW OR SPEECHES. BUT I HAVE WRITTEN IN SOME NEW TRANSITION, SUMMARY AND EXPLANATORY SENTENCES AS WELL. OBVIOUSLY, PLEASE MAKE SURE THEY EXPRESS THE PRESIDENT'S REAL INTENT. THANKS

Steve Waldman (202)626-2024

One of my earliest political memories is from 1957, when I was 11 years old. Arkansas' Governor, Orval Faubus, had used the National Guard to stop the racial integration of the Little Rock public schools. President Eisenhower then federalized the Guard to make sure integration happened. I was in a distinct minority among my friends in school because I thought Eisenhower had done the right thing. At the time, the Southern states were using the doctrine of "states rights" to keep some people from having real opportunity. ~~Discrimination~~
~~Even for~~ ~~black people~~ ~~I saw this all the time at my grandfather's grocery store in Hope. Most of his customers were black, and many of them lived either behind the store or behind the cemetery on roads that were~~ ~~even the highway in front of the store was not paved.~~ I was aware as a little boy that the government created some people differently from others. My grandfather thought his customers were entitled to paved roads since they paid taxes just like the white people did. That unfairness really didn't change until the 1960s when the federal government stepped in with the Voting Rights Act, which enabled blacks to vote in large numbers. That forced elected officials to treat them with more respect.

My grandfather also taught me about Franklin Roosevelt and the New Deal. He believed Roosevelt gave the American people a chance to work and then protected them when they were in trouble or when they retired. Conditions in Arkansas during the Great Depression were just miserable. In this case, the lesson was that sometimes the free market did not work by itself.

So I grew up with a sense that the absence of a strong federal government did not necessarily mean that people had more

2

freedom and opportunity. In fact, the national government had to affirmatively step in to make sure everybody had a fair chance.

But I started to develop a little bit different view about government when I returned to Arkansas to serve in public office. There were many times when I thought the national government was doing things that didn't make sense. When I was attorney general, for instance, I saw that the federal habeas corpus provisions governing the criminal justice process led to an appeals process that took, on average, eight years in cases involving the death penalty.

It became clear to me that we had to constantly reform and "reinvent" government. A professor of mine at Georgetown University, Carroll Quigley, used to say that you had to build institutions to make a civilization work but that institutions tended to become "institutionalized." In other words, they would abandon the original purpose for which they were established, and instead become more concerned about preserving themselves, their prerogatives, their position, their power.

At its worst, government can act just like a powerful monopoly does in the private sector, ~~like a business without any competition.~~ ~~Government can become~~ unaccountable, abusive of power, and immune to change. ^{Some examples: the welfare system, a lot of public housing, or} ~~some~~ some of the public schools that don't work. They have guaranteed revenues, guaranteed customers, and the shots are being called in the central office bureaucracy. That's why some of the more promising school reforms involve giving parents a choice of different public schools. ^{nothing groups of teachers set up new "charter schools"} That instills a sense of competition, while preserving our historic commitment to public education.

A second aspect of "reinvention" ^{involves} ~~addresses~~ ^{doesn't} ~~didn't~~ cases in which government started ^s out fine but ~~didn't~~ adapt to changing conditions. The Environmental Protection Agency was set up under President Nixon. I believe if the government had not said there was a national interest in protecting the environment, we would not have made the great progress we have in cleaning up ^{our} ~~the~~ air and water. But we don't need to approach these issues today the same way we did in the 1970s. Why? Because now businesses have figured out

that environmental protection is good economics. ~~Entire~~ ^{ies} industry ^{has} developed to design products and techniques to make factories cleaner and more efficient at the same time. Now, we have to look at more market-oriented solutions. My EPA is cutting the paperwork burdens of compliance by 25 percent next year, ~~and we are not going to allow the government to~~ ^{and giving businesses who are for help} ~~and~~ ^{businesses who are for help} ~~to~~ ^{businesses who are for help} ~~fix their problem before~~ ^{being fixed.}

Subhead

There are some things, I've concluded over the years, that ~~there are some things~~ the government does quite well. Of course our government has done a very good job protecting national security. We have the finest military in the world. And with the FBI, the Drug Enforcement Administration and the crime bill that we passed last year, the government can help make people feel safer in our streets and in our schools.

Second, the government is good at what is know in the policy world as "income transfers." In other words, its good at taking in tax money from the population as a whole and redistributing it to people with special needs. The Social Security system has worked quite well, with a very low overhead. Some argue that people could get a better rate of return if they invested the money themselves, but Social Security has basically been stable, always made its payments and the administrative costs are low. Medicare has cost problems due to the general ^{inflation} ~~expensiveness~~ ⁱⁿ ~~the~~ health care ^{costs}, but its overhead is quite low too and compares favorably with any system in ~~the~~ world.

Government has also done well setting up institutions that protect economic markets from their own worst excesses. The Federal Reserve System, which regulates banks, and the Securities and Exchange Commission, which oversees the stock markets, have been crucial in fostering economic growth in this country. Some of the countries in the former Soviet Union have asked for advice on how to get their markets to flourish, ^{as ours} ~~and one of the things~~ ~~they've looked at is how do we do this type of regulation.~~

~~So~~ ^{Completely targeted gov't action can also} ~~work~~ ^{work} ~~as~~ ^{examples: Our} ~~Finally, the government has done well when it set out to~~ ^{Family Leave law} ~~provide educational opportunities to a broad base of Americans.~~ ^{The Brady Bill,} ^{The proposed} ^{Minimum Wage} ^{increase}

Perhaps the single most important thing the government did to improve opportunity during my childhood was the GI Bill, which helped millions of young men go to college. [THIS DIDN'T COME UP IN THE INTERVIEW BUT SEEMED VERY MUCH ON POINT. IS THAT OK?]

JK

Since then, other college loan programs have helped ~~many~~ ^{over 10 million} more ~~go to college~~ ^{offer millions of students the chance} And the Head Start program has helped disadvantaged kids become more prepared for school. ^{to borrow at lower costs, on better repayment terms but stronger enforcement vs delinquent loans.}

Subhead

I've understood for nearly 20 years that big government is not the solution to every big problem. We have already eliminated or reduced 300 programs, and in my new budget I've asked Congress to eliminate or consolidate 400 more. The federal government now has 100,000 fewer people than when I became president. But it is equally wrong to say that government is the source of all our problems. We have to develop a role for government as partner, committed to creating opportunity and making people feel safer. The difference between the Republicans and me is that I still believe that the federal government has an affirmative responsibility to help people to make the most of their own lives.

Today, government's job is to enable people to adjust to the changing economy. The information age, the globalization of markets all of these sweeping economic changes have created great opportunities, but also placed enormous pressures on the American Dream. Technology and worldwide competition have depressed wages in the low skill jobs. Middle class pay is stagnating and people must work harder just to stay in place. I don't mean to reduce everything to economics. We have deep problems of culture and of the spirit in this country. Still, many of the problems we face -- the breakdown of family and community, the rise of crime and violence, anxiety about the future -- are a direct result of economic changes. Parents have ~~no~~ longer work weeks, less sleep, less time for their children. We also have growing inequality of incomes based primarily on differences in education. ^{We have to accept that we have to grow the middle class and shrink the underclass}

~~At this point in our~~ ^{to achieve that goal}
The most important thing government can do ^{to} is help people
^{education and} raise their skill levels. We have to say to people, "we can't

solve your problems for you -- you have to go out and make your way in the private sector but we're going to make sure you are empowered to make the most of your own lives." ^π That's what I mean when I talk about the New Covenant: creating more opportunity for all people and demanding more responsibility in return. You can see this in our efforts to reform a welfare system that has worked very poorly for those people who are not self motivated. Roughly half the people get on welfare because they hit a bump in the road of life, and they get off quickly. But for those in the permanently dependent class, government has not done a good job because it has not demanded much from the recipients. That's why we want to require work and responsible

^{As we give people help they need to get education for} parenting. You can see it in other efforts to give people the tools they need to make good lives for themselves. For example making college loans available ^{at lower costs and better} ~~on good~~ repayment terms ^{while requiring tougher} or letting ^{to make} people earn college money ^{by} serving their communities in AmeriCorps. ^{in they loan are repaid}

I would love to go even further. We should collapse all the job training programs of the government into one program and increase the funding. That way people would know that they could always go back to school and get new skills and have a chance to avoid declining or stagnant incomes. I would expand this direct college loan program that we've started so that everyone would be able to benefit.

The role of government is not as simple and obvious as it was during the New Deal. At that time, the government helped working people directly by giving them jobs. The sorts of things we have to do now ^{to create opportunity} have major payoffs but you don't see them until ^{Sometimes, because the connection of the policy to the job payoff is indirect, you don't see it at all} later. For example, I believe with all my heart that our economic plan ^{is} ~~was~~ in the best interests of America, ⁱⁿ bringing the deficit down, investing more in education and giving middle class families with incomes under \$25,000 a tax break. ^{to encourage more welfare} But it's hard for people to see the connection between these policies and economic growth. The same is true on trade. NAFTA opened up

markets in Mexico and Canada, and the GATT treaty increased trade throughout the world. They contributed to the creation of 6.1 million new jobs and the lowest combined rate of unemployment and inflation in 25 years.

I think the American people are torn about what role government ought to play. ^{They pay} They can't stand government and they want less of it, but they have huge aspirations for it.

^{social problems} After so many years of stagnant income and rising ~~costs~~, they want immediate results. In truth, the best solutions can take a long time to work. ^{because the problems developed over a long time. And because making} As President, I would like to give people a ^{progress on the} ~~better sense of what the time limit is, what results they should~~ ^{see and when they should be able to feel them.} This debate about the role of government could be very important. The American ^{decide} people have to sort through in their own minds what they have a right to expect and, indeed, demand of us in public office and what they still have to do on their own. ^{Political}

(stronger ending?)
Leaders in this must ~~be~~ state more clearly what gov't can and can't do, ~~at least~~ what results the American people can expect, and when they can expect them.

^{Not only} ~~responsibility for their families, their~~ ^{responsibility for their} ~~responsibility for their~~ ^{responsibility for their}

In this moment, a lot of people are angry and frustrated at ~~because~~ ^{because} prosperity and stability doesn't come to all who would hard and play by the rules and ~~because~~ they feel gov't is helping special interests and ~~giving~~ not holding everyone equally accountable.

Instead of exploiting this anger, we should seek to unify our people ~~in a~~ in a common mission to keep the American dream alive for all our people.

The role of government in this effort ~~is~~ is to help create ~~for~~ good jobs; to make our security here at home and abroad; to reform gov't, making it smaller, less bureaucratic, giving more power back to state & local gov'ts, and ~~to~~ ^{to} ~~spread~~ ^{spread} ~~education~~ ^{education} ~~so that~~ ^{so that} all our citizens have the chance to make the most of their own lives.

If we do these things, our best days are ahead.

Law Offices

HOLLAND & KNIGHT

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Tallahassee, Florida 32301

904-224-7000
FAX 904-224-8832

March 24, 1995

VIA FEDERAL EXPRESS

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

Re: Norman S. Johnson--SEC Commission Republican Vacancy

Dear President Clinton:

Norman S. Johnson has been nominated to fill one of the upcoming Republican vacancies on the Securities and Exchange Commission (SEC). I am writing to encourage your careful consideration of his nomination. I have known Norm for many years through my work with the American Bar Association. Norm has an enviable and extensive resume that details his professional and public service commitments. I am comfortable letting that record speak for itself. I want to comment on those intangible assets that are so difficult to discern from a written snapshot of a person.

Norm Johnson is a man of integrity and principle. He is the kind of person who supports someone because they take positions on the tough and controversial issues of the day, not because of the specific position that person advocates. Long before it was the popular thing to do, Norm Johnson stood up for, and stepped aside for, the advancement of women in the profession. I am the personal beneficiary of his support. He has been a friend and a mentor to many of the women who are now leaders in the American Bar Association. Likewise, he has been a friend and advocate of the justice system and of the principle of justice for all.

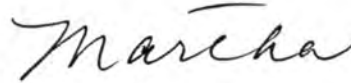
I could not recommend anyone higher for this appointment than Norm Johnson. If you or others in your office would like to talk with me further about my recommendation, please feel free to call me at (904) 425-5620.

To Bob Nash
from
Nancy Barnett
is a big
deal in
the American
BAR Ass'n &
I think a friend of the
President

William J. Clinton
March 24, 1995
Page 2

My warmest regards to Hillary and you. I look forward to seeing you in Tallahassee next week.

Sincerely yours,

A handwritten signature in cursive script that reads "Martha".

Martha W. Barnett

MWB:mal

cc via FedEx:

The Honorable Orrin G. Hatch
The Honorable Robert F. Bennett
The Honorable Robert J. Dole

cc via fax (202) 456-2259:

Charles N. Duncan
Associate Director, Presidential Personnel

THE WHITE HOUSE
WASHINGTON

April 4, 1995

MEMORANDUM FOR JODI TORKELSON

FROM: JOHN PODESTA 
SUBJECT: NEOB Parking Request

I am requesting a parking permit for the garage in the New Executive Office Building for Sharon Wagner, an employee in my immediate office. Her hours are 4:30 PM - 12:30 AM, Monday through Friday. She has been parking in Carr Park, but will need new parking by May 1.

Thank you.



THE WHITE HOUSE

WASHINGTON

April 15 1995
15 APR 3 P4: 41

MEMORANDUM FOR MIKE MCCURRY
THRU: JOHN PODESTA
FROM: JIM DORSKIND
SUBJECT: PASSOVER, 1995

[Handwritten signature]
4/13/95

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

Thank you.

*P.S. Todd is sending ^{the} Easter message
to POTUS for review + signature - draft
is done.
2-*

THE WHITE HOUSE

WASHINGTON

PASSOVER, 1995

Warm greetings to all who are observing Passover.

A celebration of both liberation and spring, Passover is a special opportunity to give thanks for the blessings of freedom and to remember the faith that sustains us in our bleakest hours. During this holiday, millions of Jews around the world draw inspiration from the example of the Israelites, who preserved their beliefs, their culture, and their dignity throughout the brutal winter of slavery. When the warm spring of freedom finally came, the Jewish people rebuilt their community and thrived, ultimately infusing every corner of the earth with a powerful commitment to faith and family.

This year, let the Passover holiday remind us of the hope that can sustain us as a people. Hillary joins me in extending best wishes to all for a meaningful Passover.

Bill Clinton

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

PASSOVER, 1995

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WILLIAM J. CLINTON

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National Office

Order Sons of Italy in America

219 F. Street, N.E. • Washington, D.C. 20002
202 547-2900 • 202/546-8168 (FAX)

*Copy Reviewed
Gleason
4-3-95*

Philip R. Piccigallo, Ph.D.
National Executive Director

April 3, 1995

SENT VIA FAX

Mr. John D. Podesta
Assistant to the President
Staff Secretary
The White House
Washington, DC 20500

Dear John:

Re: White House Reception for Order Sons of Italy in America (OSIA), Between April 21-23, 1995

To follow up the earlier detailed proposal concerning our idea for a White House reception to honor the national leadership of the 500,000 member Order Sons of Italy in America (OSIA) during its 90th Anniversary Year, please be advised of the inherent **educational** significance of this event.

The underlying purpose of the Washington gathering is OSIA's Seventh Annual National Education and Leadership Award (NELA) Dinner and Ceremony, wherein scholars from throughout the nation receive substantial grants from the SIF. Some 400 OSIA leaders and corporate supporters will attend the dinner on April 20th.

To date, OSIA and the SIF have given more than \$20 million in scholarships through open, independent and national competitions. This substantial largess has been raised entirely by volunteers and from private contributors.

Our perpetual scholarship program is burgeoning, with fifteen (15) presently endowed. Former Ambassador Peter Secchia will announce the establishment of the Pietro Secchia Scholarship in his grandfather's name at the NELA.

We are extremely proud of our educational support, which also includes a joint OSIA - John Cabot University Scholarship for study in Rome, a mentoring program, a Washington interns program and maintenance of our own Garibaldi-Meucci Museum and Cultural Center in New York.

Mr. John D. Podesta
April 3, 1995
Page 2

All this can and should be highlighted by President Clinton at a White House reception. Best regards.

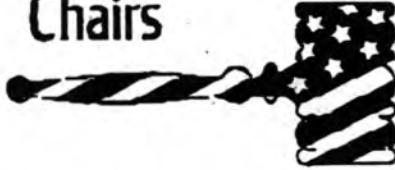
Sincerely,



Philip R. Piccigallo
National Executive Director

cc: James C. Rosapepe, Coordinator, IADLC
Alexis M. Herman, Assistant to the President; Director, Office of Public Liaison
Patrick J. Griffen, Assistant to the President for Legislative Affairs
James J. Brady, President, Association of State Democratic Chairs
Joanne L. Strollo, National President, OSIA
Valentino Ciullo, President, SIF
Peter R. Zuzolo, Immediate Past National President, OSIA

Association of State Democratic Chairs



James J. Brady
President

March 23, 1995

Ms. Alexis Herman
Assistant to the President and
Director of Public Liaison
for The White House
West Wing
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Re: Italian Americans White House Visit

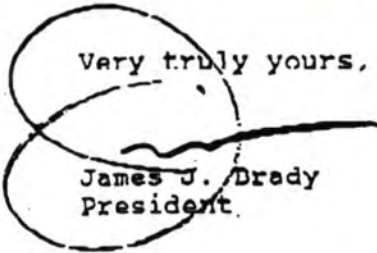
Dear Alexis:

I have been contacted by several members of the Order Sons of Italy in America, including its Executive Director, Dr. Philip R. Picciagallo, who are most desirous of having a group of their members visit The White House on an important anniversary of their organization. They tell me they have spoken to you about this visit and are awaiting a response.

Several members of the State Chairs Association are Italian Americans and would like to see this important ethnic group honored by a White House visit as soon as one could be arranged.

I urge you and your office to give the request made by the Order Sons of Italy in America expedited consideration and accommodation.

Very truly yours,


James J. Brady
President

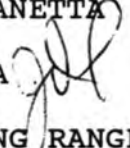
cc: Chairman Don Fowler
Minyon Moore
Andy Hernandez

THE WHITE HOUSE

WASHINGTON

April 3, 1995

MEMORANDUM FOR LEON PANETTA

FROM: JOHN PODESTA 

RE: IDAHO TESTING RANGE

Recently, Katie and I met with Sheila Cheston and Rudy Deleon, representing the Air Force, and George Frampton, representing Interior, to discuss the Idaho Training Range. The current state of play is as follows:

- o The Air Force has received a compromise proposal from the Indian tribal leadership which establishes a training range in Idaho, near the old range, but outside the area containing ancient burial grounds and the most environmentally sensitive canyon lands. The Air Force expects that they can work off of the new proposed compromise.

- o The Air Force will convene a meeting with Interior, the Tribe, the congressional delegation, and local political leadership to determine the viability of the new proposed compromise.

- o Assuming some general consensus, DOD and Interior will publish a new draft environmental impact statement and restart the NEPA process which will take a year to complete.

- o DOD will also contract with an independent contractor to do an assessment of the overall need for the range.

- o There are some steps that can be taken to mute the environmental criticism.

- o The foregoing has a good chance of keeping Senator Kempthorne reasonably happy.

Overall this seems to be headed in a better direction, although there are still potential problems ahead.

cc John Angell 