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THE PRESIDENT HAS SEEN
6/15/95

Medicare, Jot This Down

Employers Offer Valuable Lessons On Saving Money With Managed Care

Private employers demand a cut of H.M.O. savings. Medicare doesn't.

By MILT FREUDENHEIM

Business has a lot to teach the Government about controlling medical costs. But the Government hasn't been listening.

Republicans in Congress say American taxpayers could save billions of dollars and the Medicare program could be rescued if only the Government would adopt some of the cost controls that employers have imposed on their workers under the banner of "managed care." They frequently note that Medicare spending has recently been growing almost twice as fast as private spending on health care.

But health care experts in industry and the Congressional Budget Office say the Government will not realize the kind of savings that the Republicans are talking about unless it learns some of the lessons that employers have absorbed in the last decade.

Medicare, which serves the elderly and disabled, cost $162 billion last year. But it will have to find savings of $165 billion over the next seven years to remain solvent, the budget office says. Senator Bob Packwood, the Oregon Republican who is chairman of the Senate Finance Committee, says that $140 billion of the shortfall could be made up by moving more elderly Americans into managed care and that $90 billion more could be raised by increasing the premiums for wealthier retirees who stick with traditional Medicare coverage.

"We can save the Medicare trust fund," and still have billions left to cut taxes, Senator Packwood said during the Senate budget debate.

Representative Bill Thomas, the California Republican who is chairman of the House Ways and Means subcommittee on health, also said managed care would be "a major component" in saving Medicare. He said the elderly should have a range of choices, including health maintenance organizations or other networks of doctors, or Government-financed savings accounts for medical care.

Central to employers' strategies for controlling costs are the H.M.O.'s that oversee the care of tens of millions of working Americans and their families. About 2.6 million of the 34 million people covered by Medicare are already in H.M.O.'s, and enrollment is growing by more than 75,000 a month. But under present rules, Medicare spends more on its participants in H.M.O.'s than it would have spent

Continued on Page D4

Continued From First Business Page

had they stayed in traditional fee-for-service medical care, according to the Congressional Budget Office.

By contrast, employers say H.M.O.'s cost them less than traditional health plans. What have employers found that the Government hasn't? They say they have learned many lessons, including these:

LESSON 1: Promote competition and demand some of the savings.

Currently, Medicare pays the same per-capita fee to any certified H.M.O. in a county no matter what the actual cost to the H.M.O. Even though the fee is only 95 percent of the average Medicare participant's costs in that county, H.M.O. participants tend to be healthier. The taxpayer does not share in any savings realized by H.M.O.'s as they hold down costs.

By contrast, employers typically press H.M.O.'s to compete on price, and give their business to the ones that offer the lowest rates yet still meet a set of standards. If Medicare hopes to lower its costs, it should make the same demands.

LESSON 2: Make deals that take advantage of surpluses of doctors and hospital beds in a region.

For example, in markets like New York, Los Angeles and Miami, where many doctors and hospitals are competing for business, an H.M.O. can cut a better deal for their services, and could pass that savings on to Medicare. Private employers demand a cut of such savings. (By contrast, in places where there is a shortage of doctors, like rural areas and many inner-city areas, such deals would be harder to find.)

"We see enormous variations, from New York to West Texas," said Helen Darling, head of health care strategy at the **Xerox** Corporation, which itself strikes such deals.

The H.M.O.'s now serving Medicare patients in high-cost places like New York and California see a huge opportunity. That is because the average price paid there by Medicare is relatively high, so the 95 percent that the H.M.O.'s get is also high. Furthermore, because of the surplus of doctors and hospitals, the H.M.O. can negotiate greater discounts with medical providers.

Currently, the H.M.O.'s do not pass such savings on to Medicare. Instead, they use some of the money to attract new members by offering attractive benefits, like free medicines, exercise classes and other "goodies," Ms. Darling said.

"And they still make money," she added. For example, at Secure Horizons, a **Pacificare Health Systems** H.M.O. in Orange, Calif., Medicare members can take free exercise classes five times a week.

LESSON 3: Prevent "cherry picking" by the H.M.O.

Critics say that while H.M.O.'s are required by law to accept all comers, they are adept at attracting robust older Americans who need relatively little expensive care. For example, H.M.O.'s invite thousands of elderly Americans on Medicare to recruiting parties in restaurants and hotel ballrooms. Naturally, the less healthy (and costlier) people never make it to such parties. And the insurers' recruiters never seem to make it to nursing homes.

"The H.M.O. advertisements never say they have the best heart transplant doctors in the country," said Merrill Matthews, a health policy specialist at the National Center for Policy Analysis, a conservative group that has expressed doubts about the savings under managed care.

Honeywell Inc., the Minneapolis manufacturer of automated controls, concluded years ago that its H.M.O.'s were profiting handsomely by collecting per-capita fees for healthy employees who needed little care, leaving those with expensive problems in traditional health plans. As a result, Honeywell's overall medical costs kept rising. Later, the company joined with other big employers in Minnesota in a health care-buying group.

Some experts say Medicare payments to H.M.O.'s should be adjusted to reflect the health of the patients covered, so the H.M.O.'s would lose interest in cherry-picking.

LESSON 4: Establish quality standards and issue "report cards" to insure that H.M.O.'s are not cutting corners.

Last year, for instance, the Pacific Business Group on Health, comprising 28 big California employers, published a "consumer satisfaction report card." Seventeen H.M.O.'s were graded from C– to A+ on services including treatment by doctors and hospitals and counseling and screening for diseases. Most received B's and C's. Employees could consult the grades as they chose an H.M.O.

Medicare has a much less effective review system. The main performance incentive for H.M.O.'s serving Medicare patients is the knowledge that unhappy members can leave at any time and return to the traditional Medicare system.

In a step toward establishing standards for Medicare H.M.O.'s, the National Committee for Quality Assurance, an accrediting group, has begun scrutinizing H.M.O.'s serving elderly patients. Some in Florida, operated by **Humana** Inc., did not pass muster. The company says it has made changes and plans to try again.

LESSON 5: Communicate clearly with patients and be open to complaints.

Many employers provide "800" numbers and ombudsmen to answer questions and thwart skimping on needed care. Medicare officials said they were planning an "800" number, but complaints must now be filed through a cumbersome appeals process.

Communication is important because joining an H.M.O. is a "very emotional decision and change for folks," said Jim Bronson, employee benefits director of **Sears, Roebuck** & Company, which has been promoting H.M.O.'s for retirees on Medicare as a way to reduce its own costs.

Mary Jane England, a psychiatrist who is president of the Washington Business Group on Health, said many elderly Americans could benefit by joining an H.M.O. For example, an H.M.O. can direct them to the right combination of outpatient and home-care services and remind them to take their drugs regularly for high blood pressure and other ailments. She said H.M.O.'s also eliminated the tedious paperwork faced by traditional Medicare patients.

LESSON 6: Encourage H.M.O.'s to pay attention to the special needs of the elderly.

New eyeglasses, for example, may prevent a fall and a costly broken hip. Flu shots can prevent costly hospital stays. Ms. Darling of Xerox said Medicare H.M.O.'s should hire specialists with the patience to hear out complaints that can often seem long-winded.

LESSON 7: Don't set rules in concrete.

David Scherb, chairman of the Washington business group and a vice president of **Pepsico** Inc., recalled that his company once required a second doctor's recommendation before authorizing surgery. But the doctors rarely disagreed. "We've changed our minds about requiring that," he said.

LESSON 8: Allow people to go to a doctor who is not in the H.M.O. network, if they are willing to pay for the privilege.

Health plans with that option were the fastest-growing of all types of employer plans last year. Patients could "keep the surgeon they always had for cardiac problems, but they could get the rest of their care through a more tightly managed system," said Stuart Butler, a domestic policy analyst at the Heritage Foundation.

Gail Wilensky, who ran the Medicare program during the Bush Administration, said that offering such options was "one of the most important lessons that the private sector has shown us."

THE NEW YORK TIMES, WEDNESDAY, MAY 31, 1995

THE PRESIDENT HAS SEEN
6/15/95

Laura / cc: Alice R
Donna Shalala
Carol R.

anything here for us?
BC

THE PRESIDENT HAS SEEN
6/15/95

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GOP conservatives on Hill get Time Warner largess

By Ruth Larson
THE WASHINGTON TIMES

A1

Congressional Republicans last year received more than $140,000 in campaign contributions from Time Warner Inc., the media giant being denounced by social conservatives for its sexually explicit and violent products.

In the Senate, 13 GOP members received Time Warner funds, including Majority Whip Trent Lott of Mississippi ($2,000), Richard G. Lugar of Indiana ($2,500) and Orrin G. Hatch of Utah ($5,000), according to Federal Election Commission records.

In the House, Speaker Newt Gingrich of Georgia ($2,000), Henry J. Hyde of Illinois ($1,000), and Bill McCollum of Florida ($2,000) are among the 27 Republicans recipients.

Former Education Secretary William J. Bennett, co-director of Empower America, urged GOP recipients of Time Warner contributions to consider giving back at least part of the money.

"I'm sure most recipients don't listen to rap music and weren't aware of what sort of stuff Time Warner was putting out," Mr. Bennett said. "I'm a rock 'n' roller. I follow that stuff, and I didn't know until I read about it in a magazine. I'm not sure Newt and Henry Hyde listen to that.

"But I think now that they know, maybe they should consider giving the money back," he said.

Time Warner has long been under fire from conservatives who have attacked the media conglomerate for producing movies and rap music that extol murder, rape and other brutality.

Among the rap artists Time Warner has promoted are 2 Live Crew, who sang about raping women on "As Nasty As They Wanna Be"; geto boys, who rap about slitting women's throats; Snoop Doggy Dog; Tupac Shakur; and Ice T, whose song "Cop Killer" glorified slaying police officers.

In addition, Time Warner produces recordings of Metallica and Nine Inch Nails, two heavy metal bands whose lyrics are steeped in nihilism and violent imagery.

Moreover, the media giant is the producer of such violent movie fare as "Natural Born Killers" and "Pulp Fiction." Time Warner also produces "The Jenny Jones Show," a syndicated TV tabloid, and published Madonna's "Sex" book, a thin narrative featuring photos of the singer in sexually explicit and violence-tinged situations.

According to FEC records, Time Warner last year gave more than $200,000 to congressional Democratic candidates and $142,000 to Republican campaigns.

According to Time Warner records, it also donated $80,000 to Republican political action committees and $55,000 to Demcoratic PACs in so-called "soft money."

Mr. Bennett suggested that GOP recipients return one-quarter of the contributions, in proportion to the 22 percent of the revenues Time Warner receives from its music division.

Time Warner faces new criticism from Senate Majority Leader Bob Dole of Kansas. He accused the corporation of being "on the leading edge of coarseness and violence" in American culture in a speech Wednesday night in Los Angeles.

However, Mr. Dole himself has received at least $21,000 from Time Warner since 1987, according to the Associated Press.

Mr. Dole, a GOP presidential candidate, reportedly intends to continue accepting donations, prompting Mr. Bennett to respond: "I don't think that's wise — that's not the right course of action."

At a news conference yesterday in Marietta, Ga., Mr. Gingrich said he agrees with Mr. Dole's attack on Time Warner but sees no need for censorship.

"Somewhere you've got to draw a line and say, 'Enough.' I think Bob Dole's actually done the country a service," he said.

Mr. Gingrich's office did not respond to questions about his receipt of $2,000 from Time Warner in his 1994 re-election campaign.

Mark Helmke, a spokesman for Mr. Lugar's presidential campaign, said of Mr. Bennett's suggestion: "I can't give money back that I never got."

He argued that Time Warner's $2,500 contribution was made to Mr. Lugar's Senate campaign, not his presidential campaign.

Yet Mr. Helmke acknowledged that Mr. Lugar has spoken out against companies like Time Warner that use "immoral, indecent or anti-community" material for profit.

"Mr. Lugar believes the problem needs to be addressed through strong presidential leadership, and obviously he must have a consistent message and have credibility," Mr. Helmke said.

Mr. Bennett, editor of the best-selling "Book of Virtues," is waging a crusade of his own against Time Warner. This weekend marks the start of a TV advertising campaign calling on Time Warner and its affiliates to back away from violent, sexist music acts.

The commercials, airing in Washington, New York and Los Angeles, will team Mr. Bennett with civil rights activist C. Delores Tucker, leader of the National Political Caucus of Black Women.

Time Warner Chairman Gerald Levin, at the corporation's general meeting this week, said he would have the music division lead an effort to get the music industry to develop standards on potentially offensive material.

Time Warner is the largest entertainment company in the world.

The Washington Times
SATURDAY, JUNE 3, 1995

THE PRESIDENT HAS SEEN
6/15/95

THE WASHINGTON POST TUESDAY, JUNE 6, 1995

Defense Counselors Say Probe Attacks Lawyer-Client Relationship

By Saundra Torry
Washington Post Staff Writer

The indictment of Washington defense lawyer Michael Abbell yesterday on charges that he aided a massive drug-smuggling operation sent a chill through the criminal defense bar, with lawyers asserting that the Justice Department has placed zealous defenders of unpopular clients under siege.

Abbell, a onetime senior Justice Department official, and two former federal prosecutors from Miami were accused variously of obstructing justice, falsifying court records and laundering narcotics proceeds on behalf of the Colombia-based Cali cocaine cartel in a broad-based racketeering indictment against 59 individuals.

The Justice Department is "sending notice to the defense bar, 'If you represent certain people [it] is ultimately possible we can come after you,' " said William Moffitt, a Northern Virginia attorney who is treasurer of the National Association of Criminal Defense Lawyers.

While asserting that they could not speak to the specific charges against Abbell and the other attorneys, several defense lawyers said that the conduct of the investigation was troubling—particularly searches of law offices and the seizure of client files—because it struck at the heart of the confidential relationship between lawyers and their clients.

A Justice Department spokesman declined to speak to those issues, but Deputy Attorney General Jamie S. Gorelick issued a statement saying that the conduct of the indicted attorneys "goes far beyond zealous legal representation of a client. These attorneys are charged with conduct aimed at corrupting the legal system for the benefit of one or two individuals and the operation and vast wealth of one of the largest drug trafficking organizations in the world."

D.C. lawyer Henry Asbill said the searches of law offices last fall were particularly worrisome because he understood that authorities seized "records and computer disks wholesale and were fully prepared to examine . . . and get into all of it" without any regard to the effect on other lawyers in the firms or clients unrelated to the investigation.

But defense lawyers quickly got involved, he said, and protections were put in place "hopefully before much, if any, damage had occurred."

However, the "blunderbuss way" in which the searches were handled, Asbill said, is symptomatic of a mounting assault on successful defense lawyers by the government. The assault began in the Reagan administration, lawyers said. In recent years, prosecutors have subpoenaed lawyers to testify against their clients in grand juries and confiscated legal fees, arguing that they were proceeds of criminal activity.

"If they want your client," Moffitt said, "they will target you to get at the client." He added that such prosecutions of lawyers could ultimately "create a whole class of people that can't be defended," such as alleged organized crime figures or alleged narcotics traffickers.

Lawyers also said they were troubled that Abbell and the others, Miami lawyers William Moran and Donald Ferguson, both former prosecutors, had been charged with racketeering, which involves a habitual, longstanding pattern of crimes and carries a sentence of life in prison.

Whether a lawyer engaged in individual crimes "is a fair subject of investigation," but "to turn that into a massive . . . narcotics conspiracy is to send the wrong message to lawyers," said Boston lawyer Martin Weinberg, who represents Moran. "The message is, if you represent the world's least popular clients . . . you can be subjected to that client's ultimate punishment." Weinberg added that Moran "is innocent."

Lawyers for Abbell could not be reached for comment.

Charging a defense lawyer with the alleged crimes of his client, D.C. lawyer Bernard Grimm said, "would shake any defense lawyer in his boots right now. You are wondering, 'Is it something that is going to be a pattern or a precedent?' "

Budget Proposals Threaten Popular National Parks, Administration Says

By Spencer S. Hsu
Washington Post Staff Writer

Large budget cuts being pushed by congressional Republicans could force officials to close many small federal parks such as the Manassas National Battlefield or sharply curtail access to popular treasures such as Yellowstone National Park, the Clinton administration says.

The stark choice for park lovers is part of a worst-case scenario being outlined by Interior Secretary Bruce Babbitt as he tries to make the administration's case against GOP plans to balance the federal budget by 2002. Babbitt said yesterday that his department might have to close Yellowstone for the winter to avoid permanently closing several smaller parks. The department released two lists last month dramatizing what it says is the scope of the cuts in the GOP plan before Congress. The Clinton administration says the GOP-backed House budget resolution plan would amount to a 10 percent cut in the current budget for federal parks—or about $108 million—and freeze funding for five years. The cutbacks equal the spending on the 200 smallest of the Park Service's 368 parks and monuments.

In suggesting that budget cuts could affect Yellowstone, Mount Rushmore and more local Park Service operations including the Manassas battlefield and Fort McHenry in Baltimore, the administration is trying to turn Americans' passion for such attractions into political currency against the GOP plan.

"This [budget debate] isn't just about bureaucrats. This is about places people care about," Babbitt told conservation groups yesterday at the National Press Club. "The ranger experience we grew up with in national parks, which we expect, may not be available to our children."

Asked how many parks could face closure, Babbitt said, "I don't know what we're going to do . . . . The first thing to do is to look at seasonal cutbacks, closing Yellowstone over the winter months. You could save more money that way than closing 30 smaller parks. We're analyzing all that right now."

Ken Smith, a spokesman for Babbitt, said closures were inevitable. "If you're serious about a 10 percent cut, you have to close parks. I don't think it's scare tactics. Ten percent means reducing people, real programs. You have to respond."

Republicans responded yesterday by saying Babbitt's charges were premature and political.

Rep. Ralph Regula (R-Ohio), chairman of the House Appropriations subcommittee that oversees the Interior Department, said lawmakers have yet to outline specific cuts and will debate spending throughout the budget process into the fall. He said he believes no parks will have to be closed.

"The Park Service received a 69.4 percent [budget] increase in the last 10 years, so . . . hopefully they've used those wisely," Regula said.

"Obviously we'll have to put the priority on [park] operations, which will preclude having to close anything," he said. "If Secretary Babbitt and [Park Service Director] Roger Kennedy and the president make a judgment to close anything, that's a judgment they're making."

Rep. Frank R. Wolf (R-Va.), who has been a vocal defender of efforts to preserve the Manassas battlefield, criticized the administration's implication that it might be vulnerable.

"It's almost hallowed ground more than a national park. If the costs are so minimal, why would you close something that is hallowed ground, where so many on both sides of the [Civil War] conflict were killed? Those were two of the more significant battles in the history of the world," Wolf said, referring to the First and Second Battles of Bull Run, fought in 1861 and 1862.

"I hope this isn't the type of action you've seen in the past, when you see some cuts [coming] and they say they're going to cut the Washington Monument, and that's the first thing," Wolf said.

Babbitt has toured the country since January to provoke a public "backlash" against GOP environmental initiatives. The administration clearly believes it has a potent political issue in the Park Service, which offers some of the federal government's most popular programs.

According to Kathy Westra, spokeswoman for the National Parks and Conservation Association, an independent membership watchdog group, a recent poll indicated that 69 percent of Americans valued keeping parks in pristine condition for future generations.

Goodwin
Need to watch
specifics in this debate
or it [illegible]
BC

COLUMN LEFT/
ROBERT SCHEER

True Filth Is in the Eye of the Beholder

■ 'True Lies,' recommended by Dole as family fare, adds misogyny to the usual mix of violence and vulgarity.

Inspired by Sen. Bob Dole's indictment of Hollywood for "bombarding our children with destructive messages of casual violence and even more casual sex," I rushed out to rent "True Lies." That's one of the movies that Dole held up as a positive example of films that are "friendly to the family."

This was going to be good. Families these days need all the friends they can get. What better ally against the forces of darkness than Arnold Schwarzenegger, a committed Republican in real life, playing a CIA agent who reports to Charlton Heston in a movie distributed by another conservative, Rupert Murdoch? I wouldn't say it turned out to be supportive of any family I would like to be part of, but one cannot deny that the dialogue evokes strong images reminiscent of some traditional male-female relationships. None of that PC stuff here. In this movie, a woman can still routinely be referred to as a female dog. Misogyny is in.

But this traditional guy-talk doesn't mean that women go unappreciated. "Women. Can't live with them, can't kill them," is one of the lines that helped define the movie's orientation.

The movie's "friendly to the family" message is quite straightforward: Wives, besieged by household responsibilities, are intrinsically boring, and in order to save the marriage, they must learn to act like whores. At first, Jamie Lee Curtis, who plays Schwarzenegger's wife, is a dowdy working woman, ignored by a husband who never makes it home and despised by a daughter who steals. Understandably, Schwarzenegger looks to more fashionable women for excitement, casually fondling the thighs and other body parts of perfect strangers, their skirts slit to their navels. On a rare occasion when Schwarzenegger is home, Curtis tells him facetiously that she slept with the plumber to get him to knock $100 off the bill. Her husband replies absent-mindedly, "That's good thinking."

This indifference to his wife gives way to intense interest when Schwarzenegger meets a man who lusts after her. Suddenly, she is transformed into a perfect sex object as described by the would-be philanderer. What follows is a detailed exposition on Curtis' anatomy, including an odd favorable comparison to that of a 10-year-old boy, but this being an old-fashioned family newspaper, as opposed to the Murdoch empire, I'll spare you the details.

Anyway, pedophilia is clearly not promoted by this movie, since the ensuing erotica tends to be decidedly heterosexual adult S&M, in which Curtis must squirm through an inquisition before she is compelled to become a hooker working for the U.S. government, which evidently goes in for that sort of thing.

Just when you think that Dole has gone off his rocker and that this might not be the best message to be sending to young people, it turns out to be OK. That's because the guy who is paying for sex is really Schwarzenegger, the husband, only he is in disguise. Get it? Thanks to a highly charged striptease, Schwarzenegger comes to appreciate Curtis' true potential as a wife and the family stays together—which is the important thing.

But it's unfair to suggest that "casual sex" is the only concern of this movie. "Casual violence" is equally important. Heads are shoved into urinals, buildings are blown up and motorcycles race through hotel lobbies scattering innocent bystanders with the civilized aplomb that has become Schwarzenegger's signature. Most of the people who die are Arabs, so we are to assume that there is nothing dehumanizing about riddling them with bullets.

Is this art? If Dole thinks so, who am I to tell him otherwise? Maybe I'm overreacting and this movie is enlightening or entertaining in ways that escape me. That's how I feel about rap music. Much of it, particularly the fragments of lyrics trotted out by conservative critics, is ugly in just the way that "True Lies" is: hostile to women and in all other ways stupid. But that's not the way others respond. If the majority leader of the U.S. Senate can find a "friendly to the family" message in "True Lies," then other decent citizens might find value in the lyrics of 2 Live Crew.

When skeptical reporters asked Dole how he could have seriously championed "True Lies" as an antidote to Hollywood's fascination with sex and violence, he had the perfect answer. He had not actually seen "True Lies" or the other movies that he praised and damned. He was relying on what others had told him. Much better that way. Judgments about taste are tricky, and an ignorant censor is a happy one.

Robert Scheer is a Times contributing editor.

LOS ANGELES TIMES
TUESDAY, JUNE 6, 1995

THE PRESIDENT HAS SEEN
6/15/95

Leon

The other side need to get them in + talk them through things - BC

Comment

ON THE NATION

The President's Unfortunate Use of the 'D-Word'

By Ruben Navarrette Jr.

SANGER, CALIF.

President Bill Clinton's pledge to expedite deportation of as many as 100,000 illegal immigrants, most of them Latino, may imperil his Administration's relationship with those segments of the Latino community who have been his most loyal supporters.

Of all the political measures that can be employed toward the legitimate goal of curtailing illegal immigration—from stricter border enforcement to employer sanctions to identification cards to state initiatives like Proposition 187—nothing is more troubling to many Latinos, particularly those of the World War II generation, than the "D-word."

During a congressional forum on Proposition 187 last year, I maintained that the initiative's intention to deny education and emergency health care to illegal immigrants was so indecent that, should it pass, the "only humane alternative would be to deport them." When I left the stage, I was confronted by several gray-haired *politicos*. They all wanted to know how could I even *suggest* deportation as a solution. An old man waved his finger at me and asked where I, a third-generation Mexican American, would be had my Mexican grandfather been deported, as a boy, back to his village in Chihuahua.

Lost somewhere in our high school history lessons are the shameful stories of massive and indiscriminate deportations by an Immigration and Naturalization Service obsessed with protecting labor interests even at the expense of violating the civil rights of Americans. In the 1930s, hundreds of thousands of Mexican and Mexican Americans were unceremoniously deported across the border. Families were separated, mothers and fathers never heard from again. Later, in the 1950s, more than 3 million were deported. In the most infamous example of this policy run amok, known as Operation Wetback, more than 1 million people were banished into the belly of Mexico, transported in railroad cars as one might move cattle.

Thus, Clinton's threat of a speedy deportation must have received little enthusiasm among elderly Latinos with good memories and who, coincidentally, have the most consistent voting patterns. In the 1992 presidential election, 62% of Latinos voted for Clinton. Moreover, in some of the President's fiercest policy battles, Mexican American grandmothers have been more inclined to stand with him than against him.

The deportation issue is troubling because it could provide an exception to this rule. Soon after the President's pledge, a Spanish-language newspaper in Fresno ran this headline: *Clinton Declara la Guerra Contra Los Ilegales* (Clinton Declares War on Illegal Immigrants). It was followed by five exclamation points.

A Mexican American woman recently told me that, with an election year looming, it was becoming more difficult to distinguish the President, for whom she voted, from Gov. Pete Wilson, who made support for Proposition 187 a cornerstone of his gubernatorial campaign. Latino members of organizations like the Mexican-American Legal Defense and Education Fund, who would be furious had the deportation threat come from a Republican, have been noticeably silent, as have been Democratic Latino elected officials.

How the deportation issue will play out with middle-aged baby boomers and my generation is more complicated. Polls confirm that even those Latinos who opposed Proposition 187—and the overwhelming majority did—concede that an open border is foolishness and that reasonable steps should be taken to protect the sovereignty of U.S. borders. Deportation, however unpleasant, may be a necessary trade-off for opposing Proposition 187, an important show of goodwill that re-establishes our credibility on the issue of illegal immigration by admitting that laws and borders mean something.

Cecilia Muñoz, an immigration policy analyst with the National Council of La Raza, thinks that, on the immigration issue, some concessions are inevitable and flexibility is crucial. She notes that the problem, generally, is not deportation itself but the tendency of the government to abuse the process and that not all deportations are alike. Latinos, for instance, do not typically object to deporting convicts.

But where it gets complicated is with the inevitable revision and expansion that all government policies undergo. Once the electorate's appetite has been whet with the red meat of deportation as a viable policy option,

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the slope toward more aggressive ways of implementing that policy will probably get slippery. After all, why not apprehend illegal immigrants at will for, as Clinton put it, the crime that they have already committed: illegally entering the country?

Well, then, why not raid? Why not sweep schools and churches, bars and restaurants and supermarkets, wherever illegal immigrants—or those suspected of being illegal immigrants—may congregate, round them up, put them in wagons and haul them back across the border and deep into Mexico or El Salvador or Nicaragua?

Sound distasteful? You bet. Sound impossible? Not by a long shot. Many Californians are not bothered by sweeps and would support them, even call for them. And as the political bidding war of getting tough on illegal immigration escalates during next year's election cycle, the rhetoric on the right will probably become even harsher and the promises for action bolder. Finally, modern immigration sweeps are hardly unheard of.

It was just 10 years ago that bars in my predominantly Latino hometown were raided by local police and Border Patrol officers. I remember rows of Mexican-looking men in handcuffs being herded into green buses by Border Patrol agents. I wondered how "Mexican" I looked or how "Mexican" my father or uncle or cousin might look to an overzealous immigration official asking us to produce identification to prove our citizenship.

The President knows that illegal immigration will be a defining issue in his reelection campaign and that he has fences to mend with nativist voters in California. Fine. But let him pick up a history book and dust off his old law books; let him listen to some of his Latino advisers before he pokes carelessly at the hornet's nest of deportations.

It was to "sensitize" the President about such issues that, during Cinco de Mayo weekend, the National Council of La Raza and New Line Films organized, in Washington, a private screening of the new feature film "Mi Familia." The movie contains an emotional scene in which a Latina, though an American citizen, is swept from her husband and children and deported to Mexico. The idea was to educate the chief executive, just a bit, about a community to which he has had, in his own life, virtually no exposure and about which he knows little. What an unfortunate coincidence, then, that the President should make his remarks about deporting illegal immigrants on the next day.

Ruben Navarrette Jr. is author of "A Darker Shade of Crimson: Odyssey of a Harvard Chicano" (Bantam).

LOS ANGELES TIMES
TUESDAY, JUNE 6, 1995

THE PRESIDENT HAS SEEN
6/15/95

STATEMENT OF SENATOR EDWARD M. KENNEDY IN SUPPORT OF DEMOCRATIC LEADERSHIP AMENDMENT TO RESTORE STUDENT LOANS AND CRITICAL EDUCATION PROGRAMS

In the name of eliminating the federal budget deficit, the Senate budget proposal would perpetuate an education deficit for today's children and tomorrow's workers that would haunt the nation well beyond the year 2002.

A study begun in the Bush Administration documents that workers' salaries are 8% higher for each year of education they receive, starting in high school and moving through college and graduate school. In other words, if you can't afford to go to college you'll only earn two thirds as much as the person who can.

Yet the Senate budget proposal contains the largest education cuts in the nation's history. It cuts 33% of the federal investment in education by the year 2002 based on CBO figures.

And for what purpose? Supposedly to "insure a better future for our children;" to provide them with "more and better opportunities than we now enjoy." Nothing could be further from the truth if we enact the Republican budget as it now stands.

Every parent knows that education is the indispensable foundation of a better life for their children. Deep Republican cuts in education betray the hopes and dreams of parents for their children and undermine the nation's future strength. As America moves into the high-tech world of the 21st Century, our schools and colleges and students deserve more help, not less.

Last Congress, Republicans and Democrats stood together as the "Education Congress." Are we now the Anti-Education Congress? If we enact this Anti-Education budget we certainly will be.

Last Congress we voted 98 to 1 to expand Head Start to make preschool available to more children. Yet the Republican budget would drop 350,000 eligible children from Head Start over the next seven years, under the most optimistic assumptions.

Last Congress we voted overwhelmingly -- 77 to 20 -- to reshape the way the federal government supports elementary and secondary education. We strengthened our commitment, through Title I, to help children improve their basic reading and math skills. The Republican budget would deny those services to 2 million children and reduce funding at sixty thousand schools. These damaging cuts would affect virtually every public school in the country, and many parochial and private schools as well.

Last Congress we enacted Goals 2000 -- again with a bipartisan vote -- to support states in their efforts to develop high standards for students. The Republican budget would deny assistance to 47 states and more than 3000 school districts, gutting federal support for these critical reform efforts.

Last Congress we joined together to create school-to-work initiatives that provide seed money to every state to design and implement systems that will provide more effective connections for young people between classroom learning and real job opportunities in local communities. The Republican budget would scrub this highly successful model, cutting $5.3 billion over seven years to initiatives designed to improve the job skills for up to 12 million students.

Last Congress we launched the National and Community Service Program -- another bi-partisan effort -- to support local efforts throughout the nation that encourage young people to make time in their lives to serve their communities. Under the Republican budget, Americorps and Service Learning would be obliterated, eliminating funds for the 40,000 students planning to devote themselves to a year of full-time service in 1996 and the 550,000 students in American schools who could otherwise take advantage of service learning opportunities in and out of the classroom.

And what of the nation's students and working families struggling to pay for college? Last Congress we enacted the Student Loan Reform Act of 1993 and saved the nation's students over $2 billion in the form of reduced loan fees, lower interest rates, and more favorable repayment terms.

The Republican budget is devastating to America's students. Over the next seven years, it will cut federal support for student financial aid by $30 billion. And this is not an area where states will pick up the slack. 75% of all student aid comes from the federal government, and one half of the nation's students receive federal aid.

Under the Republican budget no aspect of student aid would go untouched. For 20 years the government has paid the interest on federally-subsidized student loans while students are in college, so that the interest doesn't build up before students graduate and begin paying back their loans. Under this budget, that vital support would be gone. An undergraduate who borrows the maximum of $17,125 over four years will pay an extra $4920. A graduate student who borrows the maximum of $65,500 will pay the staggering sum of $44,880 in additional interest alone.

Senator Domenici has said that his budget only eliminates the interest subsidy for graduate students. But the numbers don't add up. According to CBO, the elimination of the graduate student subsidy saves $3.3 billion over seven years. Yet the Republican budget assigns the Labor and Human Resources Committee a mandatory savings instruction of $14,.573 billion. Without eliminating the interest subsidy for all students, the Republican budget is $10 billion short, based on all stated assumptions.

Something has to give, and apparently the Republicans have decided that it is the nation's students who must give.

It's curious. We have been awash in pious rhetoric this last week about how we must balance the budget for our children. It is wrong to bury the next generation in debt. Why, then, are Republicans so willing to bury this generation of students in debt?

And it is not only student loans that will be slashed by the Republican budget. Over the next seven years, Pell grants will drop by 40 per cent if they are held at current law levels, as the Republican budget states. This decline in buying power comes at a time when the cost of attending state universities is rising on average, by 5 per cent per year. [REFER TO CHART SHOWING STATE TUITION AND FEES VS. DECLINE IN PELL].

Three of the remaining four major sources of federal student aid -- Supplemental Educational Opportunity Grants, State Student Incentive Grants, and Perkins Loans -- would be completely eliminated by this budget, costing over 1 million students per year a total of $5 billion in federal support for college.

This is not "sharing the pain." This is a full-scale assault on the nation's students and working families.

House Republicans had the audacity to describe the impact of these cuts on college students in this way. "A student who borrows the maximum for four years of college ($17,125) will see his or her monthly repayment go up by $45, or about the price of a daily Super Big Gulp [a Seven Eleven soda costing $1.59]. A student who borrows the maximum for two years will see a monthly repayment increase of $21, or less than two compact disks."

How dare the Republicans trivialize the financial sacrifices of students and working families doing everything they can to afford a college education?

Over 1500 students from across the country have written to me by mail and on the Internet to describe in personal terms what these cuts in student aid would mean to them. I have here at my desk copies of some of these personal statements. [We have a two-foot high stack of personal statements that would make a great visual and vivid reading material for anyone who might look through them. I propose that we carry it to the floor and leave it there throughout the debate.]

Let me share with you a few examples of the moving testimony I have received from students across the country.

A student attending medical school in my own state of Massachusetts writes:

"I am a 24-year-old African-American woman, born and raised in St. Louis, Missouri. I come from a poor, working class, two-parent household. I am proud to say that I was the first African-American valedictorian at my high school. I went on to college at a private institution. I received very much needed financial aid while there, including loans and scholarships. My parents helped as much as they could, but with two other children, they could only help a little....Without the Stafford and Perkins loans that I received, I would not have been able to continue my education. After graduating from college I was accepted to an Ivy League medical school where I am still very much dependent on federal financial aid. I hope to practice primary care pediatrics in an indigent community. I am close to finishing school and may not be affected by such harsh cutbacks, but I am very concerned for the future generation of students."

Incidentally, under the Republican budget this student is precisely the kind who could face over $40,000 in additional interest payments at the end of her medical training.

A student from New York writes: "My mother just got laid off today. I only have one year left before I receive my bachelor's degree. I don't want my opportunity and those of others to be cut short. Everyone in the White House, on Capital Hill, and in the state governments had their opportunity. Why are you taking away ours?"

A college graduate from Colorado writes: "I am not a student, but I'm raising my voice in support of government backing for student loans. If it were not for student loans, I would not have been able to attend college. My mother was supporting two kids and we lived in government subsidized housing -- the projects.

There was simply no way she could have paid for a college education for us, so we applied for loans and more loans. I received some grants and a great deal of loan assistance, and still I worked at McDonald's. I am now a consulting writer and I never have to look for work...it looks for me. This is a most wonderful life and I wouldn't have had any chance at all of attaining it without those student loans and grants. Please do whatever it takes to ensure that others get this chance ... it is what allowed me to become who I am today, and I thank you all."

Another student, from Maine, summed up the situation: "If you think education is expensive -- try ignorance!"

I ask each of you, before you consider voting for a budget that contains $30 billion in cuts to student aid, to look through these statements, read just a few. You will see that we are not talking here about "Big Gulps" or CD's. Rather we are talking about turning our backs on the nation's young people.

You don't turn your back on education in the name of insuring a better future for our children. You certainly don't turn your back on education to pay for a tax cut for the wealthiest individuals in the country.

The Harkin-Hollings Education Amendment would restore $40 billion to this anti-education budget. Forty billion that will go some way toward righting priorities. I urge you to support the Harkin-Hollings amendment.

Packwood Walks Tall in Timber Town

As Ethics Charges Loom, Senator Is Selective on Home State Visits

THE PRESIDENT HAS SEEN
6/15/95

Edwin Turner — BC

By Edward Walsh
Washington Post Staff Writer

ROSEBURG, Ore., June 2—Jim Beall, a lawyer and lobbyist for small timber growers in Oregon, introduced the guest speaker at a breakfast meeting here by describing his power and influence in the marble corridors of the nation's capital. "Nobody in Washington, D.C., knows your issues better," Beall said, "or has been more effective on your behalf."

With that, Beall introduced the guest, "Our senator, the very powerful chairman of the Finance Committee, Bob Packwood."

Since January, when the Republicans took control of Congress, that is a role the five-term GOP senator has relished. He has appeared on television interview programs often, expounding on the intricacies of tax, welfare and budget policy. Everyone knows he is a key player on some of the most important issues facing Congress.

As for the other well known aspect of Packwood's life, Beall said, "We ignore all that stuff."

That stuff, of course, is the 30-month Senate ethics committee investigation of Packwood and the committee's report last month, which concluded that there is "substantial credible evidence" that Packwood "may have abused" his office in three separate ways. During the committee's marathon closed-door investigation, the Packwood case largely disappeared from the news, and the incessant questioning that began with the disclosure of the allegations in late 1992 subsided while he went about his duties as an influential senator.

That all changed last month with the release of the committee report. Included in the report were some of the lurid details of Packwood's alleged sexual misconduct with 18 women, descriptions of the senator "forcing his tongue into her mouth," of how in another alleged incident he "ran his hand up the leg of a dining room hostess and touched her crotch area."

After more than 25 years in the Senate, Packwood is caught in a twilight zone between two worlds, one the lofty pinnacle of "the very powerful chairman of the Finance Committee," the other the embarrassing plight of a middle-aged man who is said to have once "chased a staff assistant around a desk" in pursuit of sexual favors.

He is a frequent guest on "The McNeil-Lehrer NewsHour" but he refuses to speak with reporters from his home state's largest and most dominant newspaper, the Portland Oregonian, while most other journalists in the state have given up asking him about the ethics charges because he won't comment.

Bill Lunch, an Oregon State University political scientist, described Packwood as "among the walking dead in political terms" in his home state. "On the other hand," Lunch said, "the guy has had an extraordinary career of rising from the dead. He's either Frankenstein or Phoenix, depending on your point of view."

Accompanied by his chief of staff, Elaine Franklin, Packwood arrived here Wednesday for a Senate subcommittee hearing the next day on the Endangered Species Act. Those who have watched the 62-year-old senator navigate through the turmoil caused by the ethics charges said that this return to Oregon—his first since the committee's report—was typical of how Packwood has clung to his base, seeking out friendly audiences who are unlikely to question him about his personal behavior with women.

Roseburg, a town of about 18,000, and surrounding Douglas County, are in the heart of Oregon's timber country, "ground zero" in the battle between environmentalists and the timber industry over the northern spotted owl, as a witness at the hearing said. Packwood, who entered the Senate with a reputation as an environmentalist, moderate Republican, has increasingly positioned himself as a defender of the timber industry.

"Rural Oregonians are very fearful about their livelihoods," Lunch said. "They are losing jobs at what they see as an alarming rate. They are desperate and they look for champions. Bob Packwood has reinvented himself as their champion."

In the parking lot of the Windmill Inn Wednesday night, a smiling young woman approached Packwood and said that she first shook his hand when she was 8 years old. The senator beamed.

The next morning, he shared coffee and muffins with about 35 timber growers, most of them small, family operations. Leaning against a table, his arms crossed in front of him, Packwood recalled that when the family that owned a popular Washington hardware store decided to sell the business, he and television commentator David Brinkley hosted a party for them.

The growers' questions concerned estate taxes, the Endangered Species Act, arcane provisions of the 1986 tax bill. No one asked about alleged sexual misconduct, or the ethics committee's other charges—which may prove even more troublesome to his Senate colleagues—that Packwood altered evidence in the case and improperly tried to use his position to obtain a job for his former wife.

According to Packwood and Franklin, voters never ask about the ethics charges. At a news conference Thursday with Sens. John H. Chafee (R-R.I.) and Dirk Kempthorne (R-Idaho), it was not until the 10th question that the subject was raised by a reporter, who asked Packwood about the local reaction to the ethics committee report.

"It only comes up from the news media," he replied. "I don't seem to get it from constituents."

"Most people don't spend the better part of their lives thinking about your problems," Packwood said later in a brief interview. "They think about their problems."

As for the next stage in the ethics committee investigation, which could involve trial-like public hearings, he said, "I'm not going to worry about it."

But the absence of questions about the ethics committee report does not mean the issue has faded and no longer stirs passionate disagreement among Packwood's constituents. Douglas County Commissioner Doug Robertson, a Republican ally of Packwood in their criticism of the economic impact of the Endangered Species Act, said Packwood remains popular here.

"It's our feeling that his position and effectiveness have not been compromised at all," Robertson said. "That's what's important to people in Oregon."

But Jerry Rust, a Democratic commissioner from neighboring Lane County who argued during the hearing that the Endangered Species Act has benefited Oregon, accused Packwood of "exploiting the fears of these workers in Roseburg for his own gain because he's lost his political base in Oregon."

"I think there is a lot of disgust and loathing among Oregon's population, but we're also resigned to the fact that we're going to have to live with Bob Packwood probably through the end of his term" in 1998, Rust added.

Tim Hibbitts, a Portland pollster, said it is only in its "breathtaking boldness" that Packwood's alleged behavior is seen by a cynical electorate as unusual for a powerful Washington politician. The most recent polls showed voters here still sharply divided over the question of whether Packwood should resign, but Hibbitts said, "I think most Oregonians recognize that boorish behavior is not grounds for expulsion from the Senate."

Packwood does not have a home in Oregon. He spent Thursday night at a hotel in Portland and had no public appearances there, where his popularity and reputation are lowest. After about 36 hours in the state, he took an early morning flight today for Washington and the Senate, his real home.

"From what I can see," Hibbitts said, "there isn't anything else going in the guy's life."

THE WASHINGTON POST
SATURDAY, JUNE 3, 1995

THE WASHINGTON POST
SATURDAY, JUNE 3, 1995

INS Expands Asylum Protection for Women

New Guidelines Recognize Rape, Domestic Violence May Be a Form of Persecution

By Lena H. Sun
Washington Post Staff Writer

The Haitian soldiers who went to the woman's house that day wore stockings over their heads to disguise their faces. They mocked her political work in support of Jean-Bertrand Aristide, the president overthrown a few months earlier in a military coup.

They threatened to kill her. Then, while her mother was forced to watch, three soldiers raped and beat her. The woman, who was 27 and married, is unable to bear children as a result of the attacks.

She fled to the United States in July 1992, five months after the attacks, and sought political asylum. Her request was denied. A U.S. immigration judge ruled that she had failed to prove she was persecuted because of her political beliefs.

But last month, the Board of Immigration Appeals overturned the decision. The board, an administrative decision-making body, found that her rape was a form of political persecution in a ruling that all asylum officers and immigration judges are now required to apply in deciding similar cases.

Last week, in a related step, the Immigration and Naturalization Service issued new guidelines formally recognizing that rape, domestic abuse and other forms of violence against women can constitute grounds for asylum. Only Canada had previously adopted such specific measures on asylum cases related to gender.

The guidelines and the board decision reflect a growing recognition in the United States and abroad that violence against women—solely because they are women—can constitute serious human rights violations and should therefore be considered when granting asylum.

In the past, the fact that an asylum claim was based on a rape or some other gender-related factor would result in its dismissal as merely "personal" by U.S. immigration authorities even if it amounted to persecution on account of political opinion, according to Deborah Anker, a founding member of the Women Refugees Project at Harvard Law School and the Cambridge and Somerville Legal Services. The group was instrumental in helping the INS develop the guidelines.

Until quite recently, there were few federal court decisions that addressed the claims of women to asylum protection even tangentially, she said.

But in the last few years, there has been growing attention to human rights abuses based on gender, prompted in part by international atrocities such as the mass rape of women in Bosnia as part of "ethnic cleansing," the systematic use of rape in Haiti by police and soldiers during and after the 1991 coup against Aristide, and the domestic violence in Rwanda, immigration officials and advocates said.

"These claims weren't made in the past, but they're beginning to be made now," said T. Alexander Aleinikoff, general counsel of the immigration service.

Judge Paul A. Najelski wrote that the woman had been persecuted because she sought her own identity and espoused Western values in a country where wives, generally, are expected to subordinate themselves to their husbands.

In an important decision last December, an immigration judge in Arlington granted political asylum for the first time to a 51-year-old Jordanian woman whose government had failed to protect her from over three decades of physical and mental abuse by her husband. The immigration service initially turned down her request for asylum, arguing that it was simply a case of domestic abuse that should be settled in another forum.

The husband was from a wealthy, well-connected Jordanian family. Among his good friends was the head of the secret police, who gave him a gun that the husband later used to shoot at his wife. After getting drunk, the husband often beat his wife, even when she was pregnant, and once used a tennis racket to hit her when he found her studying for a high school equivalency exam.

In his decision, Judge Paul A. Najelski wrote that the woman had been persecuted because she sought her own identity and espoused Western values in a country where wives, generally, are expected to subordinate themselves to their husbands. Also, she was among a group of women who were unwilling to live their lives in a "harem" at the "mercy of their husbands, their society and their government," he wrote.

This ruling marked the first recognition that spousal abuse can become a form of persecution under some conditions. The Jordanian woman had suffered at her husband's hands because of her beliefs, and she could not get real protection from the Jordanian authorities because of those same beliefs.

The INS guidelines took effect immediately. They do not lower the standard for asylum that must be met for women. Women will have to meet the same basic tests as men, and all asylum cases will continue to be decided on a case-by-case basis. Applicants seeking asylum in the United States must still demonstrate a well-founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group.

Some groups that favor less immigration, such as the Federation for American Immigration Reform (FAIR), have argued that permitting gender-related asylum claims will produce a rush of claims by many thousands of women who will see an easy opportunity to obtain legal status in the United States.

"We cannot bring people here simply because they are suffering under general cultural forms of oppression," said Dan Stein, president of FAIR.

Although most of the world's refugees are women and children, supporters of the new guidelines argue that women are often the least able to leave refugee camps or their native countries to seek asylum abroad and are unlikely to produce the flood of asylum claims that opponents fear.

In the two years since Canada adopted specific guidelines, 195 gender-related claims for asylum were accepted, according to Canadian officials. That accounts for about 2 percent of all Canadian asylum claims filed since the guidelines went into effect.

In the United States, there were 147,000 asylum applications last year, almost triple the number in 1991.

THE PRESIDENT HAS SEEN
6/15/95

Erskine
remember my Question
re: change in our position
here vis-a-vis earlier change
re: China & abortion
BC

THE PRESIDENT HAS SEEN
6/15/95

Hunters Are Not Gun Nuts

By Terry McDonell

Not so long ago, we were a nation of hunters. Our wild lands and animals appeared endless. Our Presidents were known as sportsmen and wrote books bragging about their exploits.

Today, our wildlife is under great pressure and our politicians spend brief moments in the field holding shotgun or rod aloft to television cameras, cynically hunting for votes.

There are still real hunters in America, of course. The number of hunters has stabilized at about 7 percent of the population since 1937 (6.9 million then, 15.5 million now). But these hunters are not seen clearly. The media increasingly resorts to cartoon stereotypes of hunters, and this hurts them. They are not mean-spirited rednecks or drunken Bubbas, and they are tired of offhanded references to Bambi.

They live in a food chain that they understand clearly, and they husband their game. In 1900, less than half a million white-tailed deer remained in this country; today, the whitetail population exceeds 18 million. In 1907, only about 40,000 elk could be counted; the elk population in 10 Western states now totals more than 800,000. In the early 1900's, the wild turkey population was under 100,000 and falling fast; at last count, there were more than 4.5 million. Less than 50 years ago, there were only 12,000 pronghorn antelope left. Since then the population has increased to more than a million.

This is good news for everyone, and sportsmen should be given credit for a lot of it. They have certainly paid for it. Each day, through license revenues, excise taxes and other income sources like Duck Stamps, sportsmen contribute $3 million to wildlife conservation efforts — more than $1 billion a year.

Through some 10,000 private groups they give an additional $300 million each year. Disappearing wildlife habitat is their issue, and effective game management is their goal.

No wonder they bristle when some fashion model or lobbyist accuses them of murder for thinning herds that would otherwise be virtually wiped out by winter kill. Nothing about hunting is simple, least of all the mind of the predator. Not to recognize this is to miss the point of a new hunting ethos that it as strong in the deer and elk camps of Pennsylvania and Wyoming as it is dimly perceived in the plastic-shoe section of Bloomingdale's and the health-food bistros of South Beach.

The men and women in the hunting camps are after much more than their quarry, and they are fed up with not being recognized as the strong and dedicated conservationists they are. And lately they have become even more frustrated with talk show patter about how dangerous they are.

Hunters do not join citizen's militias. They look at gun control as an urban-rural issue. And most of them agree that waiting periods and background checks are good safeguards to attach to firearm purchases.

The wilderness thrills them even as they see the social and political environment for hunting changing more rapidly than the natural world itself.

They nurture their traditions as vigorously as their grandfathers and grandmothers do, but they are saddened by what they anticipate for their grandchildren.

'We don't destroy. We conserve.'

Sometimes, sitting silently in the forest or climbing in the mountains, it occurs to them that they do not want to go home. They have begun to think of themselves as an endangered species. I know this because I am a hunter. □

Terry McDonell is the editor and publisher of Sports Afield magazine.

Erskine
Set mtg w/ Tim
~~[illegible]~~
after Halifax
BC

THE NEW YORK TIMES, SATURDAY, JUNE 3, 1995

THE PRESIDENT HAS SEEN
6/15/95

CO/cc Shalala

DOWNEY CHANDLER, INC.

1401 I Street NW, Suite 1210, Washington, DC 20005

TO: GEORGE STEPHANOPOULOS

FROM: TOM DOWNEY

DATE: JUNE 7,1995

RE: WELFARE REFORM MEMO

George,

I saw the President at the Vice President's house last night. We had a few chats about welfare, and I promised to send him something in writing. Will you make sure he sees this?

THANKS!

T

Telephone: 202/898-6458 Facsimile: 202/898-6448

TO: Vice President Al Gore
FROM: Tom Downey
RE: Welfare Reform Issues
DATE: June 6, 1995

The President gave a great speech this afternoon about the need to protect poor children and noted that the welfare reform bills that have been moving through Congress will hurt poor children. It is imperative that the entire Administration join with the President in condemning the punitive and regressive nature of these bills, articulating a clear message of what the Administration is for, and influencing the Congressional debate.

There is little support for maintaining the status quo for welfare or guaranteeing a right to AFDC benefits with no strings attached. However, I believe the American public cares about the future of America's children. I also believe that the American public does not understand block grants, does not believe that state flexibility is the answer to every problem, and believes in the positive aspects of the federal guarantee and funding mechanism as described later in this memo.

This Administration's call for genuine welfare reform must be built on the following principles:

1. Basic Protections for Children. There must not be prohibitions on aid for teenage mothers, children born while their parents are on AFDC, or children whose families have received AFDC for longer than an arbitrary time limit. We must also ensure that children would not be penalized because they became poor in June and the state had already run out of funds in January. Funding for states must be protected against inflation, recession, population shifts, and changing demographic circumstances. In addition, state maintenance of effort must be mandated. In short, any welfare reform legislation the President signs must contain all of the positive aspects of the words "AFDC entitlement."

2. Work for All Who Can. A real welfare reform bill must require that parents who can work do work, and that they be provided with the necessary supports to make that possible. Adults who are disabled or caring for a disabled child should be exempted from this work requirement and any time limit. Child care must be provided for all families that are required to work and for those who are transitioning off of welfare into the workforce.

3. Parental Responsibility. Both parents must be held responsible for the support of their child. Custodial parents should engage in work or training (if they are able) and non-custodial parents must pay child support. Teenagers should be encouraged to postpone sexual activity. If a teenager becomes pregnant, she should be required to stay in school and live at home or with a responsible adult in order to receive benefits.

To be faithful to these principles, the AFDC entitlement must be preserved. Everyone acknowledges that the current welfare system should be fixed, but it goes against everything this Administration stands for if it allows the safety net for poor children and their families to be destroyed in the name of reform. It is essential that this Administration continue to articulate this vision and speak out against the House and Senate bills, which use block grants to disguise drastic funding cuts. The ultimate test of any welfare reform bill should be: "does it improve child well-being?" If it does, the President should sign it; if it does not, the President must veto it.

Present Legislative Status of Welfare Reform

As you know, the Senate Finance Committee voted the "Family Self-Sufficiency Act of 1995" out of committee on May 26. H.R. 4. "The Personal Responsibility Act" passed the entire House in March. Both of these bills end the entitlement to AFDC. The entire focus of the welfare debate is now block grants, state flexibility, and budget savings. It is not about the welfare of children or the resources that are needed to move individuals from welfare to work. If this Administration were to accept a welfare reform bill that creates block grants to states for aid and services to needy families with children, it would alter a 60 year tradition of shared federal-state responsibility for protecting America's most vulnerable families. The President indicated today that he understands the importance of this issue. He and others must continue to take a strong stand against these bills.

During the last six months, the Republicans have transformed the definition of welfare reform from "two years and work" (the message of the Work and Responsibility Act) to "let the states decide everything" but with conservative strings. The Work and Responsibility Act promised parents that the federal government would work with states and increase funding for education, training, and child care, in exchange for which parents would have to use these tools to work toward self-sufficiency. The House and Senate Finance bills take an entirely different approach: they establish tougher (and more unrealistic work requirements), while simultaneously cutting funding for the services necessary to make these requirements a reality. These also impose arbitrary time limits on cash assistance (even if the parent is moving toward self-sufficiency) which will deny badly needed support to millions of children.

These bills passed on mainly party line votes. Throughout this process, Republicans have largely ignored Democratic concerns because they believe that the President will have to sign any welfare reform bill that comes out of Congress. Since the Republicans have been able to maintain their party unity on these major votes, they have not needed Democratic votes and have not felt the need to compromise with Democrats or accept any amendments offered by Democrats. Even if the President issues a veto threat, it is possible that Republicans will not compromise and will pass a bill like the ones passed by the Senate Finance Committee and the House.

Impacts of Republican Welfare Reform on Children and Families

The Senate Finance and House bills discussed above would have devastating effects on low income children and families. As a result of these bills, millions of children will be denied cash assistance, child protection services, child care, and nutrition assistance. These bills will push more children into poverty and offer less support to parents who want to work their way off of welfare and achieve self-sufficiency.

According to analyses done by the Department of Health and Human Services, the House bill, when fully implemented, would eliminate AFDC cash assistance to 5.6 million children; the Senate Finance bill would deny support to 4 million children when fully implemented. Of the estimated 888,000 children who received SSI benefits in 1994, 702,000 children would not have received cash benefits if the House bill had been in effect.

The size of the funding cuts in these two bills provides a good gauge of how much they will hurt poor children. The House bill will cut $69 billion from programs that serve low income children and families. The Senate Finance bill cuts $32 billion from these programs over the next five years, but this figure does not include potential cuts in Food Stamps and child nutrition. The comparable House figure (which takes into account only programs under the jurisdiction of the Senate Finance Committee) is approximately $38 billion.

This Administration has continually proclaimed its commitment to our nation's children and desire to create a better country for future generations. Everything from increasing funding for Head Start, creating the AmeriCorps program, expanding the Earned Income Tax Credit, and reducing the deficit have focused on these goals. Given these achievements, it would be tragic for this Administration to sign a welfare reform bill that would doom future generations of poor children to more poverty and less support from the federal government.

Political Issues Surrounding Welfare Reform

The issue of welfare reform has political appeal because of the resonance with the middle class values of work and responsibility. The Administration must not let the Republicans redefine this issue. Today, the President eloquently reiterated his belief that "welfare reform" is not about ending benefits; it is about improving the well-being of our nation's poor children through the promotion of work, parental responsibility and self-sufficiency.

The Democrats in Congress also accept this vision of welfare reform and support preserving the AFDC entitlement. In the House, every Democrat voted for the Deal bill, which preserved the AFDC entitlement. Although there are several Democratic alternatives in the Senate, each one maintains the AFDC entitlement in some form. Therefore, the President already has support from his fellow Democrats for maintaining the AFDC entitlement.

One final consideration is that the President will have serious problems with the base of the Democratic party, if he were to sign a welfare reform bill that is like the House or the Senate Finance bills. Although they will probably not support the Republican party candidate in 1996, it is more likely that they will stay home on election day. Given the results of the 1994 election, the President will need an energized base if he is going to be successful in 1996. It is very important that the President reassure the base that he has not abandoned them and that there is a difference between a Clinton presidency and a Dole or Gramm presidency.

Major Issues Surrounding the AFDC Entitlement

The word "entitlement" carries with it many negative connotations. To many, it means keeping the status quo and continuing unlimited benefits without obligation. However, there are aspects of the "entitlement" which are vitally important and must be preserved. These are described below:

State Match Requirements

Current law requires state financial participation in providing aid and services to needy families with children and that assistance be provided to all who meet the state-defined category of "needy." In the name of welfare reform, the House-passed bill and the Senate Finance bill eliminate both the guarantee that all "needy" families with children will receive assistance and state participation in funding assistance. Coupled with the dramatic reductions in federal funding, elimination of state matching or maintenance of effort requirements virtually ensures dramatic benefit cuts for recipients.

In addition, the current matching formula gives states an incentive to maintain somewhat reasonable levels of assistance, although the generosity of benefit levels varies substantially across the country, as permitted under current law. The minimum federal contribution to a state for benefits is 50 percent for the relatively rich states, ranging as high as 79 percent for a poor state like Mississippi. Every dollar a state spends on AFDC benefits is rewarded with forty cents in federal funds, taking into account the interaction with Food Stamps. In the context of a block grant, without a match requirement, however, states will have no incentive to raise, or even maintain, benefit levels. Every additional dollar spent by a state on assistance for needy families with children will mean less federal monies. In fact, a reduction in state spending on AFDC will actually mean more federal dollars will flow to the state through the Food Stamp program. This element of the entitlement, along with the next two described below, are needed to avoid a "race to the bottom" among states. (See attached op-ed piece by Robert Reischauer.)

Automatic Adjustments for Changing Need

The current AFDC program guarantees that federal funding will be available to help states cushion the blows of a national recession, a geographically concentrated economic downturn, a natural disaster, population shifts, or other demographic changes. The federal government will pay at least half of the increased cost for these events that increase the number of needy families with children in a state and/or the average amount of benefits a needy family receives. Under a block grant, however, when the need for AFDC increases, the entire burden falls on the state because funding levels are fixed -- even when overall revenues are also generally declining. The most plausible alternatives for states faced with insufficient funds to meet increasing need would be to restrict eligibility and/or reduce benefits for needy families with children.

The attached table shows that there are no consistent patterns among indicators of changing state needs. As shown in the table, within a five year period, or even shorter periods of time, there is enormous variation in the amount of change across states for all selected indicators of the AFDC caseload size, AFDC expenditures, children receiving Food Stamps, child population, and child poverty. A flat block grant will not respond to the broad diversity of changes in need experienced by states over time. In addition, by its very nature, a fixed block grant will decrease in value over time because it does not adjust for inflation. Therefore, unless a state takes explicit action to increase funding for benefits, either all children will receive lower benefits or fewer children will receive benefits.

Uniformity/Equal Protection

The AFDC program is currently funded to ensure that all similarly situated families with children in a state who meet the eligibility requirements receive the same level of benefits. Under the block grant proposals with their capped funding levels, families who become eligible at the beginning of the year could be more likely to receive benefits than those who become eligible toward the end of the year. If funds become limited during the year, a state might find itself in the position of having to create a waiting list of eligible families who receive benefits as funds become available, much like the current LIHEAP and Section 8 housing programs. Alternatively, a state could reduce benefits for all families at the beginning of the year in case their projections of need surpass the block grant amount.

Although current law already gives states vast flexibility in terms of defining its needy family population and setting benefit levels, it also establishes minimum federal standards for truly needy families all across the country. Under current law, a state must provide benefits to all children it defines as needy. It may not discriminate on the basis of race; marital status of the child's parents; whether the child was conceived while his or her parents received welfare; or how long the child's parents received assistance.

Conclusion

Fundamentally, block grants cannot substitute for entitlements. Each one of the above three aspects of the entitlement are important and must be preserved.

Table 8.

FLAT BLOCK GRANTS DO NOT RESPOND
TO CHANGING STATE NEEDS OVER TIME

Selected Indicators of Changing Need

Jurisdiction	1-year Change in AFDC Caseload 1993-94	2-year Change in AFDC Expenditures (million dollars) 1992-94	2-year Change in Children Receiving Food Stamps 1991-93	5-year Change in Child Population (under 18) 1989-94 (1)	3-year Change in Children in Poverty 1990-93 (1)
Alabama	-2.4%	9.2%	9.7%	-2.5%	-9.5%
Alaska	5.2%	17.2%	57.2%	16.4%	-21.5%
Arizona	2.8%	11.1%	23.6%	16.0%	34.4%
Arkansas	-2.1%	-2.4%	12.7%	-1.5%	5.6%
California	5.8%	5.6%	30.4%	12.5%	39.6%
Colorado	-2.2%	-3.6%	11.6%	12.3%	-35.2%
Connecticut	3.3%	5.9%	20.0%	3.8%	37.5%
Delaware	0.6%	4.7%	39.6%	25.9%	51.2%
Dist. of Col.	9.4%	24.6%	19.6%	-29.2%	73.3%
Florida	-2.7%	17.8%	47.5%	13.6%	23.9%
Georgia	0.1%	3.2%	19.5%	5.3%	-21.0%
Hawaii	11.3%	27.1%	20.7%	5.6%	-33.3%
Idaho	9.3%	18.6%	25.6%	11.5%	1.3%
Illinois	3.9%	5.7%	7.1%	3.5%	-3.8%
Indiana	1.1%	5.6%	27.8%	0.9%	-18.9%
Iowa	7.9%	5.7%	8.4%	3.0%	-6.2%
Kansas	-0.3%	13.1%	12.5%	4.7%	42.5%
Kentucky	-3.6%	-6.0%	0.7%	0.4%	28.1%
Louisiana	-3.4%	-7.1%	1.4%	-3.0%	6.6%
Maine	-3.9%	-8.5%	11.1%	0.3%	-5.9%
Maryland	-0.1%	4.6%	24.0%	8.8%	-9.1%
Massachusetts	-2.3%	-2.3%	10.9%	6.5%	-8.4%
Michigan	-2.5%	-3.1%	2.8%	3.3%	15.6%
Minnesota	-1.8%	-0.4%	21.8%	9.9%	-17.7%
Mississippi	-5.5%	-11.9%	9.6%	-1.7%	-3.3%
Missouri	2.5%	6.8%	17.9%	5.6%	18.3%
Montana	1.4%	10.2%	18.0%	9.7%	-26.7%
Nebraska	-4.8%	-7.0%	20.6%	4.2%	24.1%
Nevada	8.0%	21.9%	65.6%	35.7%	20.0%
New Hampshire	4.1%	19.2%	43.8%	4.7%	66.7%
New Jersey	-2.8%	2.3%	9.7%	5.3%	26.0%
New Mexico	7.5%	39.8%	45.9%	9.7%	-20.3%
New York	5.1%	0.3%	8.8%	3.7%	23.6%
North Carolina	0.4%	7.4%	31.7%	6.9%	6.9%
North Dakota	-9.5%	-5.0%	5.3%	-3.9%	-21.8%
Ohio	-3.0%	0.0%	0.7%	1.3%	17.2%
Oklahoma	-3.1%	-3.8%	18.3%	3.2%	52.2%
Oregon	-1.1%	6.2%	21.9%	12.3%	74.0%
Pennsylvania	2.3%	3.0%	11.2%	2.0%	14.0%
Rhode Island	2.1%	14.5%	18.0%	3.9%	94.1%
South Carolina	-2.6%	-2.9%	24.8%	-0.3%	40.3%
South Dakota	-3.9%	-0.3%	9.5%	6.1%	-12.0%
Tennessee	2.7%	5.7%	27.1%	3.3%	4.6%
Texas	1.8%	16.1%	24.2%	7.0%	20.1%
Utah	-3.5%	3.2%	14.8%	6.5%	43.6%
Vermont	-1.3%	-1.7%	27.0%	3.5%	-19.5%
Virginia	1.6%	11.9%	33.5%	8.2%	-10.5%
Washington	1.6%	3.7%	13.6%	15.8%	44.3%
West Virginia	-1.6%	4.9%	76.5%	-7.3%	9.1%
Wisconsin	-3.5%	-4.7%	6.0%	7.3%	49.3%
Wyoming	-11.8%	-19.1%	13.6%	0.7%	13.4%
Minimum value	-11.8%	-19.1%	0.7%	-29.2%	-35.2%
Maximum value	11.3%	39.8%	76.5%	35.7%	94.1%
Median value	-0.1%	4.7%	18.3%	4.7%	13.4%
National Average	1.4%	4.0%	18.8%	6.1%	15.3%
Total States	66,425	$1,000	2,243,910	3,939,000	1,953,753

(1) State level CPS data in the smaller states are subject to a relatively large sampling error and should be interpreted accordingly.

The Blockbuster Inside the Republicans' Budget

In the Rush to Fiscal Devolution, Has Anyone Figured Out How to Divvy Up the Cash?

By Robert D. Reischauer

"POLITICALLY DARING," said The Washington Post's lead story. "Historic," said the New York Times. They were referring, of course, to the plan unveiled last week by Senate Budget Committee Chairman Pete Domenici (R-N.M.)—followed by an equally ambitious House Budget Committee plan—to balance the federal budget by 2002. And, indeed, both committees deserve considerable credit for doing what few have dared before—actually laying out with some specificity the benefit and service cuts required to do the job.

Now, though, Congress has to complete the work the committees have only begun: figuring out exactly how the program cuts would be carried out. Take, for one key example, the proposals to change the way the federal government pays for such means-tested entitlement programs as Aid to Families with Dependent Children (AFDC) and Medicaid. Instead of providing aid through the current open-ended matching grants that pay a share of the costs each state incurs for welfare, the federal government would give block grants—fixed amounts of money—to each state for these purposes.

From both Washington's and the states' perspectives such a change has first-glance appeal. Block grants would limit the federal government's financial exposure—a relief after a period of rapid and unpredictable growth in welfare-related spending. The budget plans, in fact, anticipate about $200 billion in savings over the next seven years from the switch to block grants. To the states, block grants hold out the promise of reduced federal regulation and a chance to use Washington's money to pay for state-designed programs that may be better tailored to local values and conditions. Sounds like a great idea—until you hit the details.

Robert Reischauer, a senior fellow at the Brookings Institution, was Congressional Budget Office director from 1989 to 1995.

Consider, for starters, a seemingly simple question: "How would the block grant money be distributed among the states?" "Obvious," you may say. "Divvy it up by need"—that is, in proportion to the number of low-income residents in each state. Further thought might suggest paring the allocations to wealthier states somewhat on the grounds that they can afford to chip in more of their own funds than poorer states, but basically the plan is straightforward.

Straightforward until you look at the way that federal aid is currently shared among the states. In fact, if block grants were allocated according to need, there would be massive redistributions of federal aid. For example, if federal AFDC monies were allocated according to the number of poor children in each state, Alaska, Hawaii, Massachusetts, Rhode Island, Vermont and Washington would see their federal payments roughly halved, while Alabama, Arkansas, Louisiana, Mississippi, South Carolina and Texas would more than double their take.

Similarly, if Medicaid block grants were allocated according to the number of residents with incomes under 150 percent of the poverty threshold, the current flow of funds to New York would be cut in half while federal aid for this purpose to Virginia, Florida and Idaho would increase by at least three-fifths.

Okay, so Congress is not likely to agree on such a massive upheaval to state budgets. Why not just allocate block grants along the lines of the existing federal matching grant structure? But this means we would provide the nation's poorest state, Mississippi, with a block grant worth $302 per poor child (which is what its 1994 federal AFDC grant was) while we distribute to each poor child in Connecticut, the nation's richest state, some $1,566. Sound fair?

We accept this inequitable distribution under the existing matching grant structure because it's the result of each state's decision about the amount of its own resources it wants to devote to welfare. Mississippi could increase its federal payment if it chose to spend more of its own money, that is, if it raised its AFDC benefit levels five-fold to match Connecticut's.

But under a block grant approach, where a state's own effort on behalf of the poor would not affect its federal aid, such an allocation would be indefensible. Congress would find itself faced with a choice of taking money away from some large, powerful states to increase the allocations to poorer states or increasing overall funding. The former would be a political nightmare; the latter would undermine the budgetary rationale for block grants.

Funding formulas are far from the only killer question about block grants. Think for a moment what would likely happen to state spending on the vulnerable populations they are meant to serve. Most likely, it would drop like a rock.

First, states would no longer be encouraged by generous federal matching rates to devote their own resources to low-income residents. Currently, the federal government rewards rich states by matching with a federal dollar every dollar they spend on AFDC and Medicaid; poor states such as Alabama and Arkansas receive roughly $3 from Washington for every state dollar they spend.

Without this inducement, state welfare spending, which amounted to $68 billion or 43 percent of the total spent on AFDC and Medicaid in 1993, will be squeezed out by more popular programs such as school aid and criminal justice. Fearful that they will become a Mecca for the poor if their welfare programs are more generous than those of their neighbors, states will compete in their stinginess. Future Congresses also will be tempted to cut federal allocations as they seek ways to reduce the deficit—far easier to do when the cuts play out through 51 separate state programs and the repercussions on affected individuals are less obvious.

But should we care if spending on the poor is reduced? After all, federal means-tested outlays have almost tripled over the past decade; maybe some belt tightening is in order. Surprisingly, the explosion of welfare costs does not mean that states have been lavishing benefits on the poor. Health care for poor elderly and disabled individuals accounts for much of the increase, while AFDC and food stamp benefits to welfare families have, on average, declined. As a result, means-tested cash, food and housing benefits are considerably less effective in lifting people out of poverty than they were a decade ago.

The unfortunate reality is that, as the economy has changed and divorce and out-of-wedlock births have soared, the poor population has grown—by 25 percent between 1988 and 1993—and the poor are poorer than they used to be. Scaling back resources for this group is not going to make it shrink. It is only going to increase hardship, homelessness and suffering.

And what would happen to a state if the need for welfare increased unexpectedly because of a national or localized recession, a natural catastrophe, immigration or other demographic factors? After all, over the last four years, AFDC caseloads in 14 states expanded by more than one-quarter, while those in 12 states contracted. The answer is that the state would be left holding the bag—just when its own resources were under greatest strain.

Finally one may ask whether, when all is said and done, block grants will really give states greater flexibility and freedom from federal regulation over the long run. The answer is "Probably not." String-free federal aid flies in the face of the Golden Rule of Fiscal Federalism: "He who provides the gold sets the rules."

Over time, federal intrusiveness will grow, driven by the inevitable desire of Washington policymakers to assert federal priorities and to ensure federal funds are not squandered. (See the detailed rules in the House-passed welfare reform bill as evidence that, even at the dawning of the block grant age, it is impossible to keep Congress from playing a major role in program design.) When the inevitable examples of fraud, waste and abuse in the block grant programs hit the headlines, Congress will feel compelled to impose ever more detailed regulations and controls. In time, the states could find themselves with most of the red tape they hoped to shed and without the generosity provided by the open-ended matching grant structure.

Block grants could well end up making an admittedly bad system even worse. This, however, should not be cause to defend the status quo. Several reforms could give the states more programmatic leeway and the federal government more budgetary certainty. The waiver processes, which have already given states flexibility to experiment with ways to save Medicaid and welfare dollars, should be expanded and encouraged. The underbrush of minor federal welfare regulations should be cleared away. Welfare budgets should be established to keep total spending within acceptable bounds while allowing these budgets to vary modestly with economic and demographic conditions. And finally, retaining the matching grant structure would preserve incentives for state contributions, but matching rates could be adjusted periodically to keep federal spending within limits. True, these changes won't produce massive, near-painless savings—but then neither will block grants.

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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

JUN-09-1995 14:52

THE PRESIDENT HAS SEEN
6/15/95

To Alexis

He mentioned his mission to Judy Woodruff — can't get him on air

BC

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June 9, 1995

VIA FACSIMILE AND MAIL

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

Dear Mr. President:

In recent conversations with Linda Lader, Jack Bass and others I have been encouraged to write you regarding the increasing concern which so many of us feel about the growing paranoia and hostile divisiveness which seem to be afflicting the country.

All of us have been involved in various ways in working to allay these problems. In almost every community there are groups striving to break down the barriers of fear and prejudice and misunderstanding. Somehow these efforts need to be reenforced and broadened.

Despite the skepticism and even cynicism which have contributed to the present state of affairs, I am convinced that the overwhelming majority of people in this country want to do the right thing by their fellow Americans. I believe that there is a deeply felt desire to restore a sense of national unity such as we had amid the challenges of World War II, the fiftieth anniversary of the end of which we are now observing.

Could this then not be an appropriate time for you on a totally non-partisan and non-political basis to create a process that will lead the American people to a better understanding of the forces that divide us and out of that understanding enable more of us individually to consider what we need to do?

To begin that process I would suggest the creation of a Presidential Commission on National Unity to be chaired by someone like General Colin Powell. A fifteen to twenty-five person panel made up of nationally respected civic, religious, business, and academic leaders with no political axes to grind and who would personify an unassailable commitment to fairness and honest inquiry could I believe speak effectively to the American people.

I would envision meetings of the Commission around the country followed by the laying out of a series of thoughtful, practical and even inspirational recommendations much in the way the Halfway Home report was presented.

The Commission could hold up for all the country to see the best examples of community-building that are now taking place. It could challenge private philanthropy and encourage support for and expansion of community foundations which are committed to this mission. It could explore on a level not yet attempted the implications for our nation of a society that is growing increasingly ethnically diverse and economically unbalanced.

Some may regard such an effort naive, but I am convinced that there is a great reservoir of dedicated and concerned people in this country who would respond with fervor to this kind of call to duty, just as we did in World War II. With the imprimatur of the President of the United States behind it, an initiative like this could be the basis for bringing us together.

I believe that the time is right for such an undertaking. After I had drafted this letter, by coincidence I received a notice in this morning's mail from the American Assembly at Columbia University of a meeting to develop a program on the subject "Reuniting America". There is obviously great national interest in and concern about this problem. I am convinced that you would have broad support in this effort.

I appreciate your untiring service on behalf of our nation.

Respectfully,

Bill

William F. Winter

WFW/sjt

39426-1/00000.00000

Leon 6-14-95

per our discussion Sun., we need to discuss how to deal w/

BC

THE PRESIDENT HAS SEEN
6/15/95

#24

THE PRESIDENT HAS SEEN 6/15/95

THE BUDGET

GETTING THE EDGE

As the President dithers over strategy, the Speaker discloses an endgame that would dare Clinton to shut down the government

By **KAREN TUMULTY** WASHINGTON

NEWT GINGRICH'S OFFICE, decorated with bloody Civil War battle scenes, makes an ideal command headquarters. Atop the highest ground in the city, he can survey the entire territory he hopes to conquer—and plot the ambush he says can clinch that victory. By fall, Gingrich predicted in an interview with TIME, the Republican Congress will have passed a raft of bills to implement its seven-year plan to balance the budget and will confront Bill Clinton with an excruciating choice. He will have to sign on to spending cuts that will inflame his Democratic supporters or veto them and force the shutdown of all but the most essential federal functions, such as air-traffic control and the mailing of Social Security checks. "He can run the parts of government that are left [after the cuts], or he can run no government," Gingrich said, adding wryly, "Which of the two of us do you think worries more about the government not showing up?"

President Clinton, for his part, was having a harder time deciding on a strategy that would best serve his re-election plans. Should he blame the G.O.P. for cutting popular programs like Medicare, or should he join the budget-balancing campaign by seeking a compromise? For months, Clinton sided with his wife and other liberal advisers in defending the status quo and refusing to propose any alternative plan for balancing the budget. But at just the moment when that approach appeared to be bearing fruit, with Clinton's poll numbers rising and the Republicans beginning to squabble among themselves over tough spending cuts, the President waffled. During a New Hampshire radio interview, he said he would propose what he called a "counterbudget" embracing the G.O.P. goal of balance by a certain date. "I think it clearly can be done in less than 10 years," he added. The White House tried to play down the remarks as only somewhat inconsistent. Several days later, however, Clinton reversed himself again, saying it was more important to safeguard vital social programs than to eradicate the deficit in the relatively near future.

Some Clinton aides blamed this triple somersault on Dick Morris, a G.O.P. political consultant from Connecticut who helped Clinton in his Arkansas campaigns and whom the President has lately turned to for advice. Morris has warned Clinton not to get on the wrong side of the public desire for a balanced budget.

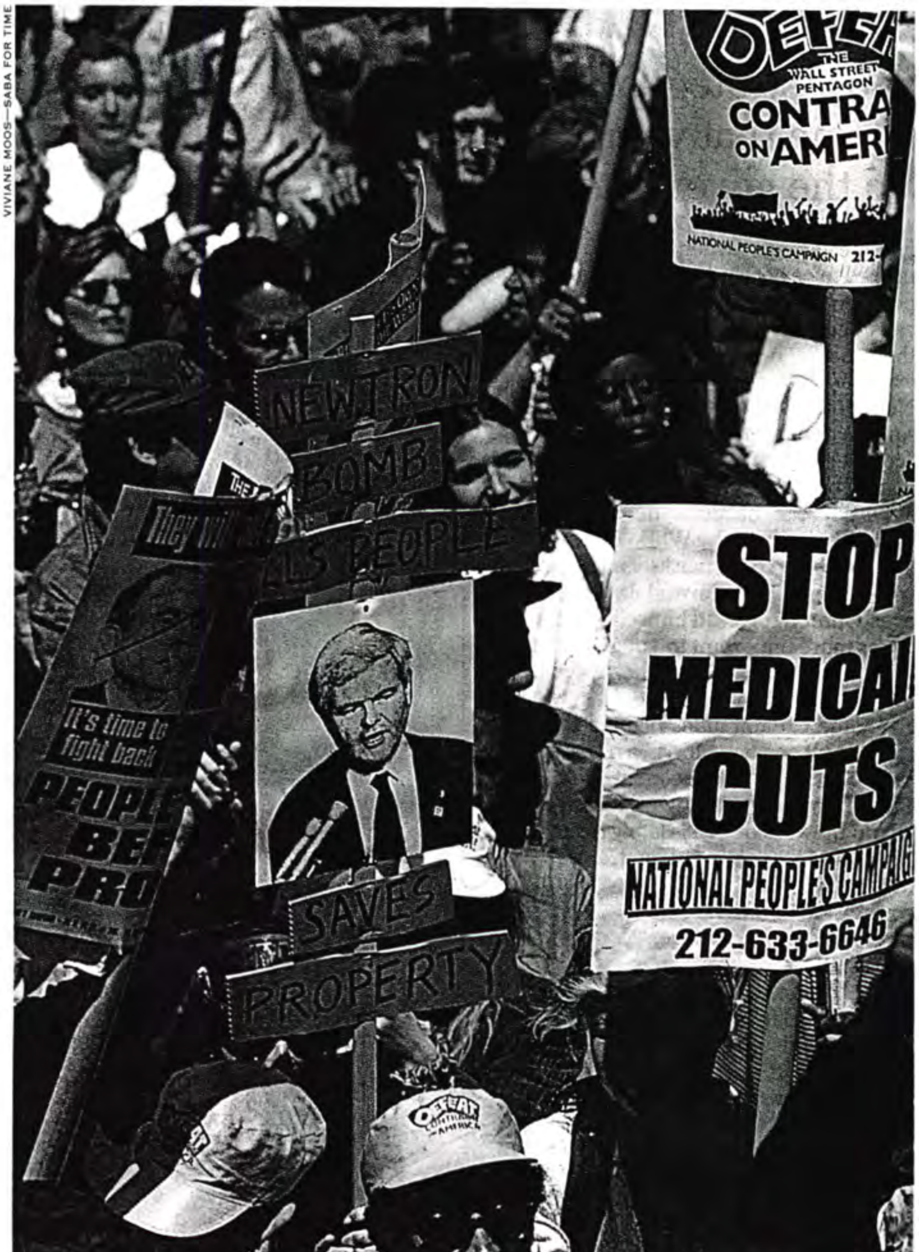
But the real problem is the President's resolve. Whether Clinton's comments were earnest or merely bluff, Gingrich's ability to focus on the endgame amid the complex and wearying Battle of the Budget presented a stark contrast to last week's disarray in the White House. As the blueprint for a balanced budget passed the Senate last Thursday, Democrats were left to carp, at the margins of the debate. What most concerns them as they head into the months that will make or break the Republican revolution—and perhaps the Democratic Party—is an increasingly apparent mismatch of adversaries: an extraordinarily canny and disciplined Speaker who relishes a risky fight versus a President who is constantly shifting strategies and positions. If Gingrich does manage to turn the budget fight into a $1.4 trillion game of chicken, Clinton will find himself in the sort of contest for which he seems ill suited. As White House chief of staff Leon Panetta says with elegant understatement, the President "is not by nature somebody who is simply interested in total confrontation."

Fears that Clinton is not rising to the challenge were reinforced last week in a fight over relatively minor cuts, or "rescissions," in the current year's budget—a $16.4 billion bill that is an early test of both

PHOTOMONTAGE FROM PHOTOGRAPHS BY GAMMA LIAISON

PHOTOMONTAGE FROM PHOTOGRAPHS BY GAMMA LIAISON sides' determination as well as their strategies for the larger conflicts to come. Clinton stayed out of the rescission fight until the moment when the House was preparing to pass the final version of the bill. Issuing his first specific veto threat to the new Republican Congress, the President complained that the bill was too heavily larded with Congressmen's pet projects. He lost that point, however, when congressional leaders noted that some of the pork—including, aptly enough, a $12.4 million swine research center in Iowa—had been proposed and championed by the President himself. In a final stumble, the compromiser in chief engaged in a sequence of furtive phone calls with Gingrich in the hope of avoiding the veto. Clinton said he would sign the bill if Republicans would restore $700 million in education spending. He was waiting for Gingrich's answer when a gunshot rang across the White House lawn as guards subdued the first of last week's two intruders. When the Speaker finally called, his answer was no.

CLINTON'S CHOICE: Will he appeal to liberal constituencies by opposing the cuts or seek compromises with the G.O.P.?



VIVIANE MOOS—SABA FOR TIME

On the balanced-budget plan, the question has become not if but when to start negotiating a deal with the Republicans who run Congress. Now is far too soon. The budget resolution is one of the few major congressional initiatives over which Clinton has no veto, since it is only a plan for action rather than an act. Moreover, Republicans are not likely to budge on their principles as long as they are convinced they have public opinion on their side. "This is not a place where [the President] can engage, because frankly he has no leverage to engage," says Panetta.

But as Clinton waits for his moment, he is finding it hard to resist his own worst impulses, and his situation is made more difficult by growing tension and jealousy within the White House. Much of it centers on the odd role of increasingly influential Clinton confidant Dick Morris. As recently as March 1994, Morris advised conservative Republican Senators at a Maryland retreat on how to get the best of Clinton, telling them in essence that the President "didn't get the name 'Slick Willie' by accident," recalls Senate Republican whip Trent Lott, a Morris client. By late last year, Morris was working the other side, having established a relationship so sensitive that the President would refer to him as "Charlie" when speaking to him on the telephone in the presence of unsuspecting staff members.

While many of Clinton's closest advisers resent Morris' growing influence, he has his admirers in the White House, including one important ally, Bill Curry, who joined in February as Counselor to the President and who is described by a senior official there as "a wholly owned subsidiary of Dick Morris." Curry, a Democrat who narrowly lost his run for Governor of Connecticut last year, impressed Clinton with his ability to fashion a coherent policy message that synthesized the often conflicting interests of the party's traditional and moderate wings. Curry and Morris share the opinion that Clinton should step off the sidelines and start laying the groundwork for compromises that could avoid a showdown later in the year. And though Morris has pressed for more engagement, even he was said to be dismayed by Clinton's clumsy efforts to enter the fray on the budget. At issue was not the substance of the move, says White House spokesman Mike McCurry, but "a question of timing."

That is the essence of Gingrich's strategy as well. He is confident that Clinton will try to block every major G.O.P. initiative that comes his way this summer, particularly legislation that implements the Republican budget. "All of his allies who want to re-elect him will go nuts if he doesn't veto, so I assume he's going to veto to prove that he really is a loyal leftist," Gingrich said. "Then we'll sit there and stare at each other for a little while." Until Oct. 1, which, as Gingrich pointed out, is when the money runs out. Then, the Speaker vowed, he will go for broke, putting everything the President vetoed back into the legislation required to keep the government operating.

Such showdowns became standard

practice during the Reagan and Bush administrations, orchestrated in those days by a Democratic Congress to force the hand of a Republican President. But they never lasted more than a few days and generally accomplished little more than to bring down public disgust on both sides. "We may be here for a long time this way," Gingrich said. "Because this is the heart of the revolution. And the question is, Is the President going to be able to veto the revolution, or is the President going to decide that it's better to preside over the revolution?"

Of course, it's easy to talk that way more than four months before the deadline. House minority leader Richard Gephardt dismisses the Speaker's Armageddon scenario with two words: "Normal bluster." What's more, Panetta says, Gingrich has as much to lose as anyone else: "I'm a little shocked that he would want to jeopardize the country in that fashion, because that's a scenario in which nobody wins."

And it is far from certain that Gingrich can even get that far. The Speaker's battle plan assumes, after all, that he can keep his own forces in tight formation, something that he admitted will become more difficult as they move from broad and laudable goals to painful specifics. Just last week, the House Republican leadership found itself unable to hold its left and right together on a foreign-aid bill, and had to abruptly postpone the vote. In the end, it may spare Clinton the trouble of following through on his threat to veto the bill.

The Speaker will also need the assistance of the Senate, whose more cautious Republican majority is decidedly leery of much of what the House has embraced. In debating the budget it passed last week, 23 Republicans joined all 46 Democrats in trouncing a proposal by presidential contender Phil Gramm for a massive tax cut similar to the one the House wants.

But Gingrich insists that if he takes the gamble and wins, the consequences could be no less than historic for Congress as well as the presidency, an office to which he continues to insist he does not aspire. "We are going back to a pre-Woodrow Wilson era, where the presidencies are important, but they're not decisive," he said last week. "What you're going to see is the emergence of the President as first among equals." The way things have been going lately, Clinton may view that prospect as a step up. ***—With reporting by Jeffrey H. Birnbaum, Nina Burleigh and James Carney/Washington***

Term Limits: The Fight Dies Hard

IT TAKES A LOT TO DISCOURAGE THE ZEALOUS ADVOCATES OF CONGRESSIONAL term limits. A major Supreme Court ruling isn't enough, certainly. Last week's decision, in which the court voided an Arkansas term-limits measure, had the effect of overturning similar laws that had been approved in 22 states. And the movement appears headed for another disappointment in coming months, when the Senate is expected to consider and reject a term-limiting constitutional amendment, which failed in the House in March. But advocates of term limits, an idea supported by two-thirds of American voters, refuse to give up the fight. They plan to redouble their effort to throw out their opponents in Congress. "We will make it clear to longtime incumbents that you can't get out from under term limits," says Paul Jacob of U.S. Term Limits, the largest group behind the push. "If the court doesn't hold you to them, the voters will."

The Term Limits Legal Institute has targeted more than 60 foes of term limits in the House, most of them Democrats, in congressional districts where the majority of citizens who voted on such referendums favor limits. Among the targets: California Democrat Vic Fazio, a nine-termer whose district approved a term-limits initiative with a 66% majority in 1992. But the campaign is daunting. To win the two-thirds of both Houses needed to send a constitutional amendment to the states for approval, backers would have to replace or win over 63 House members and, at last count, at least 24 Senators. Yet advocates like Cleta Mitchell, director of the Term Limits Legal Institute, insist their enthusiasm is abiding. Says she: "I've always considered this a marathon rather than a sprint."

T I M E   O N   C A P I T O L   H I L L

Approving the Blueprints for a Balanced Budget

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	SENIOR SENATOR	JUNIOR SENATOR	REPRESENTATIVE
❶ House Fiscal-Year 1996 Budget Resolution			
❷ Senate vote on Gramm tax-cut proposal			
❸ Senate Fiscal-Year 1996 Budget Resolution			

THE WHITE HOUSE

WASHINGTON

June 15, 1995

MEMORANDUM FOR LEON PANETTA

FROM: TODD STERN TDS

SUBJECT: Long Range Plan

First, please excuse the tardiness of this memo. It results mostly from the short-range reality that I've been buried trying to (a) keep a lot of paper moving, and (b) hire staff (Phil Caplan as the new deputy and Carol Cleveland to replace Fran, with a new third person yet to be hired). That said, let me turn to the principal issues.

Paper Flow

The flow of paper to the President, especially information items, has been increasing substantially in recent months. We have already implemented certain measures to consolidate paper, but we need to do more -- the President is getting overloaded and has expressed his frustration on several occasions.

I plan to do a general memo to senior staff to urge, once again, that everyone try to limit what they send him. In addition, I plan to meet separately with particular offices, such as Political and Cabinet Affairs, to talk about ways to consolidate and limit the flow.

Press Conferences/Interviews

On many occasions, the material we provide the President for press conferences or significant interviews is excessive. For the "Larry King Live" interview, *84 pages* of *domestic* briefing material was submitted to us.

The typical process is that White House staff collects material from agencies and forwards it to us (via the Press Office). It would be more effective if White House staff received material from agencies at least 24 hours in advance (unless it's a last minute event) and then boiled it down so the President got what he needs -- for example, a half to one page of concise Qs and As on a subject rather than four or five pages. I plan to convene a meeting with key people from the Press Office and policy shops to go over this; I have already discussed it with Press.

Briefing Books

We need to tighten this process up. Papers are coming in too late -- often after 8 pm -- which means both that the book gets to the President later than it should and that our Office has little opportunity to have papers fixed that need fixing. Our aim is to have relevant staff submit briefing materials to our Office by 4 pm the day before the event if possible and by 6 pm at the latest.

Trip Books

John and I talked to Erskine a while ago about making some changes to the President's trip books.

Overview. First, we proposed adding to the trip book a brief overview memo laying out the rationale for the trip -- why the President is going, what we hope to accomplish, what the message is. In essence, a domestic analogue to the "Scope" memos he gets for major NSC events. Our office would prepare this memo.

Background Section. Our office should oversee preparation of a single, unified briefing memo for whatever states the President is travelling to, combining what are now separate memos on political affairs, economic issues and local issues. The initial work on this briefing would still be done by NEC, Political, and Research, with assistance from Cabinet Affairs if necessary. We would continue to provide separately the one-pager the President now gets from NEC on a given state's economic progress during the Clinton Administration.

Additional sections of the memo (or, in certain cases, separate memos) pertinent to specific events or states would be included on an as needed basis -- for example, on immigration, timber, etc.

Travelling

In recent months, because we've been understaffed, we haven't filled our traditional role of travelling on overnight trips. All Staff Secretaries in recent memory have gone on such trips (i) to handle paper coming in from the White House, (ii) to make sure the following day's briefing book is complete and distributed to relevant senior staff, and (iii) to handle paper coming back from the President so that copies get made for relevant staff and the paper gets properly archived. I think it makes sense for our office to resume the practice of travelling on overnight trips where possible.

Feedback

It would be helpful for me to get a couple minutes with the President at some point -- perhaps after John leaves and I officially assume my new duties -- to get a little feedback. For example, it would be useful to know if the President has any views about (i) the volume of paper he is getting generally and the amount he is getting from particular offices, like Political and Cabinet Affairs; (ii) his daily briefing book and trip books; (iii) the nature and amount of materials prepared for large events such as economic conferences and town meetings and (iv) the way we are now packaging and summarizing information memos.

Last Thought

I have a last thought which I am not actively pressing, but offer up in case you and the President think it might be helpful. One way to clear through a lot of paper without sending it all to the President (even in summarized form) would be for me to spend a few minutes with him every week (perhaps along with Nancy Hernreich) going through various memos, letters, reports, etc. I could tell him orally, and very briefly, what each one is about, providing him only with the ones he wants to see. The upside would be that he wouldn't have to look at quite so many nagging folders in his inbox. The downside is that you'd need to build another 15 minutes or so into the weekly schedule -- although, in theory, the President would save more time by not having to read as much. Of course, the President might not care to do this in any event. But if you and he think it would be useful, we could try it out.

cc: Erskine Bowles
Harold Ickes

Chron

THE PRESIDENT HAS SEEN

cc Leon's letter
to Greenspan, Rubin
w/ Thomas McLarty
comments
re: it

OA
M 6/15/95

6/15/95
original sent
to RM –

Carol

THE WHITE HOUSE

WASHINGTON

June 12, 1995

The Reverend Gerald E. Mann
Riverbend Church
4214 Capitol of Texas Highway North
Austin, Texas 78746

Dear Gerald:

Thanks for your letter of May 25. I really appreciate your insight and your suggestions, and I'll think carefully about what you've recommended.

Thanks, too, for your generous invitation to visit your church, and I hope that I may someday be able to accept.

See you soon.

Bill Clinton

I think you're right
we'll be back in touch.

Nancy Schroeder

Dr. Gerald E. Mann
Riverbend Church • Austin, Texas

May 25, 1995

Dear Mr. President

In the past few weeks I have become more convinced than ever that you must express your personal faith and values in a forum outside of usual media channels.

Whether you use the format I suggested to you when I was at the White House or choose another venue, your message needs to be given directly and unfiltered to the people.

The Religious Right is being given the high ground in this country because their only competition is from voices which are to the left of your position and that of most Americans.

The majority of the people are to the left of the Robertsons, Limbaughs, et al, but to the right of traditional liberal theology and politics. I believe that your future success rests with this "Common Sense Middle".

My own experience on national television has shown me that this group is hungry for leadership. Without it they will hold their noses and align themselves with the right side of the spectrum.

I still welcome the opportunity to give you a fair forum outside the Beltway and the major media hubs.

I hope to hear from you.

Sincerely,

Gerald Mann

Dr. Gerald E. Mann
Pastor

GEM:ks

GS when I return from Halifax need to determine where we go in light of Sup Ct decision

THE PRESIDENT HAS SEEN 6/15/95

Bill

THE PRESIDENT HAS SEEN
6/15/95

95 APR 21 P 1: 58

Mr. President:

Here is the options memo on the major choices in affirmative action. To put this in context, this memo assumes that we are not making any changes in the basic structures of affirmative action -- that we would affirm the basic principles where it works best: in the military, in college admissions and in employment (E.O. 11246). At the same time we would strongly reassert that when we do affirmative action we should never resort to quotas, that we should never give preferences to unqualified people, and that reverse discrimination is wrong.

We also assume that you want to maintain minority scholarship programs. Even though they may look like quotas, they can be justified because they "expand the pool of qualified applicants." We would also say that these scholarships should not come at the expense of financial aid for other disadvantaged students.

Two tough decisions require most of your attention:

1.) Hiring/Firing -- You know the arguments, and there is obvious political benefit in drawing a bright line here. On the other hand, drawing that line would beg the question: If you believe firing is different, why did you reverse course in the Piscataway case? Also the civil rights community will surely protest this bright line.

2.) Set-Asides -- Set-asides are the only remaining program for you to eliminate. You could call for eliminating set-asides based solely on race on the grounds that they are, in effect, quotas. Moving toward economic disadvantage could be combined with program reforms, expanding the overall set-aside, and developing empowerment zone-type initiatives. Still, we would expect significant protest from the Black Caucus, minority businesses and other civil rights groups. On the other hand, if you fail to move away from set-asides, you will face criticism for buckling to your base and failing to eliminate a single program after going through a top-to-bottom review. Keeping set-asides also conflicts with your anti-quota principles, despite the fact that these programs have been effective.

Attached is the policy memo along with a message memo prepared by Gene which fleshes out the communications and political arguments in greater detail. A much smaller group than normal should meet after you review these to finalize decisions. Let me know what else you need.

Ger

THE WHITE HOUSE

WASHINGTON

95 APR 21 P1 : 58

April 20, 1995

MEMORANDUM FOR THE PRESIDENT & THE VICE PRESIDENT

From: GS George Stephanopoulos, Christopher Edley, Jr. & Peter Yu

Re: Affirmative Action: Policy Issues

This memorandum presents options regarding federal affirmative action policy. Part I outlines options in four areas: education, employment, procurement, and broadcast licenses. Part II offers three alternative, broader perspectives that may be useful in your deliberations. A subsequent memorandum will discuss the message, communications, and political dimensions of these policy choices.

I. AFFIRMATIVE ACTION IN EDUCATION, EMPLOYMENT, AND PROCUREMENT

A. Education: Race- or Gender-Specific Scholarships

Background. The central issue in the area of education concerns scholarships for which race or gender is a condition of eligibility. This issue has two dimensions: (i) scholarships administered by universities receiving federal assistance and (ii) federal scholarship programs.

With regard to (i), the current Administration policy for enforcement of Title VI, announced by Secretary Riley in February 1994, permits the use of race as a condition of eligibility for financial aid in order (a) to remedy past discrimination or (b) to promote diversity, provided the measure is narrowly tailored and does not unduly restrict access to financial aid for nonminority students. A measure is "narrowly tailored" if (1) race-neutral means would have been ineffective; (2) a less extensive or intrusive use of race would have been ineffective; (3) the measure is of limited extent and duration, and is applied in a flexible manner; (4) the institution periodically reviews the continuing need for the measure; and (5) the effect on nonbeneficiaries is sufficiently small and diffuse so as not to unduly burden their opportunity to receive financial aid. These restrictions apply to university-administered aid, whether publicly or privately funded. Approximately 3.3% of all undergraduate financial aid, 4.3% of all graduate financial aid, and 12% of all professional-school financial aid is administered through such scholarships.

Current policy with regard to *gender*-specific scholarships provides that institutions may not discriminate on the basis of gender, but may administer privately-funded gender-specific scholarships if the overall effect of such scholarships does not discriminate on the basis of gender. The majority of gender-specific scholarships are limited to men, rather than women.

The federal government also directly administers a number of race- or gender-specific scholarship programs. All of these are designed to increase diversity in professions or specialties in which racial or gender groups have been significantly underrepresented, either because such inclusiveness is deemed critical to the continued strength of that profession, or because inclusion will lead to greater attention for neglected communities and problems. Supporters of these programs emphasize that these scholarships are necessary to attract women and minorities to these areas. Examples include: NSF's Minority Graduate Fellowship Program designed to increase the number of minority scientist and engineers and NIH's Minority Clinical Associate Physician Program designed to increase the number of minority physicians.

Options. The policy options include:

Option 1: Maintain current policy, which requires "exhaustion" of alternatives to diversity-based use of race- or gender-specific scholarships.
Option 2: "Tweak" current policy to require added analysis of alternatives.
Option 3: Bar use of such scholarships except as necessary to remedy past discrimination; otherwise, dilute exclusivity through broader eligibility.

Analysis. Education policies regarding admissions and scholarships are central to public concerns about affirmative action. Some view race- or gender-specific scholarships as a form of "set-aside" and thus reminiscent of quota-driven admissions policies (such as the dual-admissions system struck down in *Bakke*). On the other hand, education and training are on the "opportunity" end of the opportunity-to-results spectrum, and the current policy requires that any race- or gender-specific programs be narrowly tailored.

Option 3, which focuses on race-specific scholarships, was proposed by the Bush Administration in 1991. This approach would send a clear message that no applicant should be excluded from a scholarship program on the basis of race or gender. Arguably, this would be a curious rule, as it would leave intact numerous scholarships limited by religion, surname, geography, and other, more arbitrary criteria.

Option 2 would clarify the seriousness of the requirement that an institution wishing to use such scholarships (outside of a remedial context) first analyze race- or gender-neutral approaches and conclude they would not be effective substitutes for more exclusive scholarships. The policy guidance would be amended to require the institution to be prepared, if challenged, to present the evidence and analysis upon which its conclusion was based. (This is the formulation used elsewhere in the guidelines, and by the courts, in explaining that when an institution may invoke its history of discrimination as a remedial justification for race-specific scholarships.) On the one hand, this option amounts to a declaration that race or gender should only be used as a condition of eligibility when truly necessary. On the other hand, its minimal practical effect might not justify the anxiety it would likely generate among minority and women's groups.

Option 1 would maintain current policy. As noted in our discussions, race– or gender–specific scholarships are small slices of a much larger pie -- much of which is administered on the basis of need. As there are so many different avenues for financial aid, it is possible to argue that race– or gender–specific scholarships do not meaningfully limit the opportunity of any student, or at least no more so than does a scholarship limited to offspring of the Knights of Columbus or the Daughters of the American Revolution.

Indeed, current antidiscrimination enforcement guidance from the Department of Education, promulgated during the Reagan Administration pursuant to Title IX, makes the test for gender–specific scholarships whether the financial aid practices of the institution, *taken as a whole*, provide equal opportunity. As a matter of constitutional doctrine, race–based distinctions are subject to stricter scrutiny than gender–based distinctions. But this distinction seems untenable as a general matter of policy or politics. Hence, any toughening of prohibitions on race–based aid should probably be similarly applied to gender–based aid.

Finally, we should note the relationship between these options and the familiar hypothetical: a college admissions or scholarship policy that favors the African–American son of a successful neurosurgeon, but not the son of a steelworker. Some argue that affirmative action should be only for economically disadvantaged minorities, because affluent minorities are evidently not suffering from a lack of opportunity, relative to many less economically advantaged whites. The rebuttal has three central points. *First*, there should be affirmative efforts to provide opportunity for economically disadvantaged individuals, both white and non–white; such efforts need not come at the expense of affirmative action when it is legitimately directed at minorities on the basis of concerns apart from economic disadvantage. *Second*, apart from economic disadvantage, but still within the realm of "private fairness," it is often observed that comparatively *ad*vantaged minorities nevertheless continue to face social and other obstacles solely because of prejudice and discrimination, and that these disadvantages, while different from badges of poverty, are a fair basis for attention. *Third*, in the realm of institutional and societal benefit, a college might properly conclude that the institution will benefit from inclusion of the neurosurgeon's son -- even though affluent -- just as they might conclude that the diversity benefit of including a bassoonist is weighty not withstanding the musician's affluence. In America today, it remains likely that the neurosurgeon's experiences, perspective, and aspirations will reflect some aspect of the distinctive reality facing blacks. And the college may choose to value that.

B. Employment: Race or Gender in Layoff Decisions

Background. The central issue in this area concerns race or gender as a consideration in layoffs. Under current law, two propositions are clear. First, layoffs cannot be used as a means to implement an affirmative action policy by "making room" for new, diverse employees. Second, race or gender cannot trump a *bona fide* seniority system.

The reach of this second principle is limited. While seniority systems are common in the public sector, the decline of unionism has reduced the private sector's reliance on such systems.

Thus, reportedly, many large firms expressly consider diversity in their layoff policies, and with significant results: Illinois Bell cut recently 930 management jobs, but the proportion of minority managers rose from 25 to 27%; Baxter cut 20% of its 2000 employees, but the proportion of minority managers increased from 10 to 12%.

The narrow question of "tie-breakers" is thus most likely to arise in the context of a seniority system where layoff decisions are more structured. In the *Piscataway* case, the Justice Department has argued that Title VII does not prohibit the School Board from using race as a tie-breaking consideration in pursuit of a legitimate interest in diversity. In the context of the federal civil service, the OPM regulations are silent: the Department of Justice (Office of Legal Counsel) believes the statutes and caselaw would, as in *Piscataway*, permit narrowly tailored consideration of race or gender.

Options. The policy options include:

Option 1: As a policy matter, when not inconsistent with a bona fide seniority system, diversity may be considered in layoffs, but only in limited circumstances.

Option 2: As a policy matter, race or gender should not be considered in layoff decisions.

Analysis. Concerns about employment are two-fold. In certain sectors, there is a sense that some job opportunities are limited to "diversity candidates" and thus that white males are excluded. Second, there are concerns that in a continuing era of corporate reengineering, women and minorities are, due to affirmative action, at less risk of being laid off. (As you have noted, affirmative action is sometimes used cynically to justify decisions made for other reasons, legitimate and otherwise.)

Option 2 would issue a sharp and clear statement and would provide some comfort to whites, males, and their dependents, in a time of insecurity. (There would be a corresponding reinforcement of minority and women concerns about their marginality.) In the public employment context, this is likely to have little policy impact because of seniority rules, and thus will affect only tie-breaker-type situations. However, this option would send a loud signal to the private sector and could have an effect on private practices.

Option 1 is closer to the status quo, but does not lend itself to a simple rule. Instead, this approach would call for the common-sense balancing of the institution's general diversity interest and the burden on identifiable majority employees. Consideration of race or gender would be permissible only: when necessary for the institution's operation; when a manifest racial or gender imbalance exists; and when less race-intrusive considerations are not effective. If you select this option, announcing a clarification of federal layoff policy could underscore the very high hurdle you would impose, but might also serve to focus resentments around the entire issue. In any case, however, we are likely to face continuing questions regarding the law and policy surrounding the *Piscataway* situation.

C. Procurement: Preferences & Set-asides

Background. Federal law establishes several goals for the distribution of federal procurement opportunities: 20% for small businesses; 5% for small disadvantaged businesses (SDBs -- virtually all of which are minority-owned[1]); and 5% for women-owned businesses. There is a web of programs designed to reach these goals; some are government-wide, others are agency-specific. These efforts use several tools:

- **Sole source procurements:** Under SBA's § 8(a) program, small disadvantaged businesses (SDBs) can secure smaller sole-source contracts (usually less than $3 million).

- **Sheltered competition**: Under DOD's "rule of two," a contract is set aside for SDBs if the officer believes two or more SDBs are likely to make competitive bids on the contract. (If this set-aside is not triggered, there is a similar "rule of two" for all small businesses. Failing this, there is open competition.)

- **Bid preferences**: In open competitions, DOD awards a 10% bid price preference to SDBs; last year's procurement reforms authorized government-wide use of this preference. The RTC program uses a 10% "bonus" preference on contract price and a 15% point bonus on "technical merit," provided the SDB is within the qualified range; the preferences are also provided to joint ventures where the SDB has 40% or more of the transaction.

- **Subcontracting incentives**: DOT provides an incentive payment to prime contractors who (voluntarily) subcontract with SDBs. (The *Adarand* issue.)

These efforts have been successful in expanding procurement opportunities for women- and minority-owned firms. Between 1982 and 1991, while the dollar volume of all contracts increased by 24%, contracts awarded to women-owned firms tripled and contracts awarded to minority-owned firms doubled. Of late, these increases have been accompanied by actual decreases for non-disadvantaged small firms. For example, while DOD's contracting with SDB's more than doubled, its contracting with other small businesses fell by nearly 20%. Notwithstanding these gains, 97 percent of contracting opportunities continue to be awarded to non-SDBs.

Some aspects of these efforts have been problematic. Rates of successful graduation from the 8(a) program remain low and the possibility of abusive practices remains, although recent statutory and administrative efforts promise some improvements. Outside of the limited 8(a) program, however, there are no graduation requirements apart from what happens naturally if a business is no longer "small" or an entrepreneur accumulates substantial wealth. In addition, these programs have in some instances had a disparate impact on particular regions and industries -- such as smaller construction projects and certain transportation sub-industries. Finally, while

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[1] In the Department of Transportation's program *only*, the SDB definition includes women.

the 8(a) program permits nonminority firms to participate upon a showing that a firm's owners are "socially and economically disadvantaged," in practice only about 1.6% of all 8(a) firms are white-owned (and those mostly disabled), because the statute links "social disadvantage" to membership in a group subject to discrimination.

Options. The policy options are:

Option 1: Eliminate misuses; expand pre-bid assistance. In particular: establish tighter asset-related eligibility rules to prevent the "disadvantaged millionaire" phenomenon; limit the concentration of set-asides in a single region or industry; and set standards (by business sector and by region) to determine when preferences are no longer necessary. With regard to pre-bid assistance: invest in *new, vigorous* outreach, technical assistance, and surety bonding programs to help level the contracting playing field; continue efforts to "mainstream" minority and women-owned businesses in SBA's programs.

Option 2: Broaden eligibility, but retain race- and gender-based preferences; emphasize the transitional character of program. In addition to the measures in option 1, take the following steps:

- *Social or Economic Disadvantage:* Eliminate the requirement that owners be "socially disadvantaged," thus opening up eligibility to white owners who demonstrate "economic disadvantage." Maintain a less stringent economic disadvantage test for minorities and (*for the first time outside DOT*) for women; this separate standard would preserve some differential benefit for minorities and women, but without excluding disadvantaged whites from the program altogether. To minimize any harm to current participants, increase the goal for total SDB procurement from 5% to 10%.

- *Strict transition requirements:* Require graduation from the program for all SDBs after, say, four years or four contract awards. This limits the moral cost of maintaining preferential treatment for women and minorities.

Option 3: Convert to race-neutral programs. Phase out race- and gender-based eligibility, relying instead on race- and gender-neutral criteria of economic disadvantage only.

Analysis. While procurement policies do not have wide visibility, they are arguably more problematic than either education or employment policies for two reasons. First, the policies rely heavily on racially exclusive set-asides: the practical effect of a set-aside is to take a contract and hang out a shingle saying "whites need not apply." Second, some view procurement set-asides as more problematic than, say, minority-specific scholarships, believing that providing profitable business opportunities seems more directed toward equal results than towards equal opportunity. These observers emphasize that "education is different."

At the same time, preferences may be more necessary in procurement for several reasons. First, anti-discrimination laws are more difficult to enforce in this area, especially in the subcontracting realm. Second, "old-boy" networks are arguably stronger in this area, so that informal exclusionary practices beyond the reach of law enforcement can be potent and persistent. And finally, procurement decisions often turn on a single factor -- price -- and thus the multi-factor mechanisms used in education and employment are less available in this area.

Option 3 would issue a clear statement that federal contracts should not be awarded on the basis of race or gender. Current preference programs would be converted to focus on economic disadvantage (albeit with a tighter asset test than current policy). This option represents a judgment that whatever the group-based discrimination or disadvantages faced by minority or women entrepreneurs, no special policy measures are appropriate beyond "pool-development strategies" such as aggressive outreach and technical assistance.

As noted above, one can support race-specific scholarships but reject race-specific contracting set-asides by distinguishing procurement as "more related to results than to opportunity." This approach is far more restrictive than Supreme Court precedents, which permit set-asides based on legislative findings of discrimination or lingering effects.[2]

Option 2 would retain a minority- and gender-specific preference program, but reform it in three critical respects. *First*, it would ameliorate several of the most problematic aspects of the current programs. Tightening the asset test emphasizes that the goal is to create opportunity, not endow millionaires. Limiting the concentration of preferences reduces the unfairness to white bidders in a particular region or business sector. Capping the number of contracts awarded through sheltered competition ensures that opportunities are spread over more SDBs.

Second, the program would emphasize creating *opportunity* for entrepreneurship, rather than ensuring entrepreneurial success. Thus, in addition to pool-development measures, this approach would require prompt graduation, emphasizing that preferences help "break the ice," but that entrepreneurs should quickly be ready to compete with small businesses generally. Limiting the "bites at the apple" serves to emphasize that the program is an entryway, not an entitlement. It also underscores that benefits from the program should not be unduly concentrated.

Third, the racial exclusivity of current preferences would be reduced by opening eligibility to non-minority firms based on economic disadvantage. Operationally, this is likely to have only a modest effect on minority contracting. Prior to the codification of its minority entrepreneurship focus in 1978, the 8(a) program used this "minority *or* need" approach; at that time, only about 4% of all 8(a) firms were white-owned, compared with 1.6% today. Increasing the SDB goal to 10% should help address concerns about diluting benefits to minority-owned firms.

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[2] The Court has required a somewhat more rigorous demonstration by state and local governments than by the Congress. The *Adarand* ruling, expected before July, presents an opportunity for the Court to announce more restrictive principles.

Option 1 would maintain the basic structure of the program -- including its use of race. This option would emphasize eliminating misuses and expanding efforts to develop the pool and level the playing field.

Distressed Areas: In addition to these policy options, we have begun to develop a complementary option: procurement preferences that focus less directly on minority capitalism and more on job-creation for disadvantaged persons and distressed communities. Some of these alternatives would be place-based and others employee-based; we are currently examining issues of administrability. Example of such initiatives include:

- Provide set-asides or other preferences for firms whose workforce (on the contract) would be drawn more than X% from *chronically distressed* areas, using measures based on Census and BLS data. (There are two especially well-regarded alternative indices of distress in the social science literature.) *Or*
- Provide preferences to firms whose workforce would be drawn more than X% from targeted population groups, such as recent AFDC or food stamp recipients. *Or*
- Provide preferences as above, but based also on the employment of underrepresented groups. *Or*
- Employ any of these approaches, but scale the magnitude or duration of the preference according to the firm's workforce "score."

Bearing in mind that such an initiative speaks to somewhat separable policy and political objectives, you may decide that such an ***empowerment contracting*** scheme should be a (i) substitute for, (ii) complement to, or (iii) condition of the reformed entrepreneurship preferences.

FCC Auctions: Your decision on procurement set-asides will also govern the Administration's position regarding the FCC's auction of "personal communication systems" (PCS) licenses. Phases of the PCS auction have been stayed pending resolution of a constitutional challenge to bid preferences afforded minority- and women-owned firms by Commission regulations. Because PCS licenses are for cellular and other wireless communication rather than for broadcasting, a programming-diversity rationale will not justify group-based preferences. Instead, the motivation is to create inclusive entrepreneurial opportunity, where there otherwise would be none, in a critical emerging industry. Preferences in the PCS auction should be handled like procurement preferences.

II. PUTTING THE PIECES TOGETHER: BROADER PERSPECTIVES

Your policy choices in this area may be most easily defended if they reflect a coherent theory or approach. This Part outlines three such approaches, and describes the policy choices that seem most easily justified within that approach. (See Exhibit 1.) Each is consistent with some basic inclinations you expressed in our various "vision" discussions, including:

- Emphasize antidiscrimination and *opportunity*, rather than guaranteeing results.
- Stress the *remedial* justification, but also embrace the goal of *inclusion*.
- Respect the interests of *bystanders*, by crafting policies carefully and narrowly.

A. The "Calibrated" Approach

This approach emphasizes the difference between equal opportunity and equal results in two dimensions. In terms of the policy tools one uses, outreach and training are less result-driven and thus less problematic than set-asides or quotas. Similarly, in terms of the context, a specific affirmative action tool is less problematic in education (which expands opportunity) than similar efforts in procurement (which more directly affects the distribution of wealth).

This approach supports a broader range of affirmative action policies in education than in procurement, as illustrated by the diagonal orientation of the "border area" in Attachment 1. Thus, certain kinds of set-asides are acceptable for scholarships, but should be eliminated or sharply focused in procurement. With regard to the policy choices outlined above, this approach would support:

Education:	Option 1 -- Maintain current policy.
Employment:	Option 1 -- Permit race or gender to be considered in layoff decisions.
Procurement:	Option 2 or 3 -- Reform and sharply narrow procurement preferences, or phase them out.

B. The "Least Intrusive Alternative" Approach

A second approach expresses more overt solicitude for bystanders by stressing that affirmative action must be narrowly tailored to minimize exclusivity and the use of race- or gender-based decisionmaking. Thus, result-driven quotas are always inappropriate (except in rare court-ordered remedies), and set-asides may only be used (i) when they are either broadly remedial or (ii) when less intrusive alternatives are not *effective*. In essence, this approach would apply the Title VI scholarship policy to all three sectors.

Of course, "effectiveness" will be a matter of degree, and there is an implied balancing of the benefits of inclusion with the costs of exclusion. Prior discrimination is relevant, as is the opportunity-results distinction. So, one might weigh those costs and benefits somewhat differently in different contexts: it matters if an institution or industry has a history of discrimination, in which case the narrowness need not be too scientific; and it matters if the context is procurement, where the distribution of largesse ought to be narrowly tailored indeed.

This approach leads to support for limited use of race-specific programs. In particular (as illustrated in Attachment 2):

Education:	Option 1 or 2 -- Maintain or tighten current policy.
Employment:	Indeterminate -- Either option on consideration of race/gender in layoffs.
Procurement:	Option 2 -- Reform and sharply narrow preferences.

C. The "Anti-Exclusion" Approach

A third approach emphasizes the moral cost of maintaining programs that exclude persons on the basis of race or gender -- even in the name of diversity. This approach entails opposition to the rule-of-two SDB set-aside and to race- or gender-specific scholarships; these are effectively indistinguishable from quotas. Instead, such programs would have to be revamped to rely on multifactor considerations in which race is but one factor, or on race- and gender-neutral approaches.

This approach leads one to support elimination of set-asides in all areas. In particular (as illustrated in Attachment 3):

Education:	Option 3 -- Eliminate race- or gender-specific scholarships.
Employment:	Option 2 -- Oppose consideration of race or gender in layoff decisions.
Procurement:	Option 2 or 3 -- Reform and sharply narrow procurement preferences, or phase them out.

EXHIBIT 1

Provisional Decisions: Check one box (□) in each column

(#) -- indicates option number in the memorandum	**Education**	**Employment**	**Procurement**
"Calibrated, Opportunity" Approach	□ (1) Maintain current policy requiring exhaustion.	□ (1) Permit limited consideration of race/gender in layoffs.	□ (2) Reform & sharply narrow preferences; emphasize transition; add disadvantage eligibility; *or* □ (3) Convert to race-neutral programs.
"Least Intrusive Alternative" Approach	□ (1) Maintain current policy requiring exhaustion; *or* □ (2) "Tweak" current policy, requiring added analysis.	□ (1) Permit limited consideration of race/gender in layoffs; *or* □ (2) Oppose consideration of race/gender in layoffs.	□ (2) Reform & sharply narrow preferences; emphasize transition; add disadvantage eligibility.
"Anti-Exclusion" Approach	□ (3) Eliminate race- and gender-based aid by expanding eligibility, softening exclusion.	□ (2) Oppose consideration of race/gender in layoffs.	□ (2) Reform & sharply narrow preferences; emphasize transition; add disadvantage eligibility; *or* □ (3) Convert to race-neutral programs.

A. *"Calibrated Opportunity" Approach:* Emphasize creating opportunity, not guaranteeing results.

B. *"Least Intrusive Alternative" Approach:* Emphasize narrow tailoring, and concern for bystanders.

C. *"Anti-Exclusion" Approach:* Emphasis on avoiding bald set-asides that announce: "No whites need apply."

Additional Decision: FCC Broadcast Licenses: □ (1) Maintain status quo, *or* □ (2) Establish a limited tax-certificate program.

Attachment 1: A Calibrated Approach

Opportunity -- Results

	Opportunity Enhancing Assistance	Advantages & Flexible Preferences	Set-asides	Quotas
Education	Compensatory ed; Outreach & recruiting; HBCUs	Multifactor admissions policies: **e.g., UC-Berkeley**	Group-based programs: e.g., Banneker; NIH Minority Fellowship; San Bernardino's Bridge Program	Two-track (i.e., pre-Bakke) admissions
Employment	Outreach & recruiting; Apprenticeships; Second look programs: **e.g., the military**	Multifactor hiring: **e.g., judicial selection; the Chicago police dept.**	Exclusive job listings: **e.g., Ill.State Univ.; anecdotes from academe**	Race-normed tests to ensure proportional representation
Contracting & Procurement	Technical assistance; Mentoring; Bonding assistance	10% bid preference; "Subcontractor Compensation program": **e.g., the Adarand case**	8(a) program; Rule of two	Numeric set-asides

Results -- Opportunity

under this approach, shaded policies would be appropriate only as remedies for lingering or ongoing discrimination

Attachment 2: A Least Intrusive Alternative Approach

Opportunity -- Results

Results ---------------------------------- Opportunity

	Opportunity Enhancing Assistance	Advantages & Flexible Preferences	Set-asides	Quotas
Education	Compensatory ed; Outreach & recruiting; HBCUs	Multifactor admissions policies: **e.g., UC-Berkeley**	Group-based programs: **e.g., Banneker; NIH Minority Fellowship; San Bernardino's Bridge Program**	Two-track (i.e., pre-Bakke) admissions
Employment	Outreach & recruiting; Apprenticeships; Second look programs: **e.g., the military**	Multifactor hiring: **e.g., judicial selection; the Chicago police dept.**	Exclusive job listings: **e.g., Ill.State Univ.; anecdotes from academe**	Race-normed tests to ensure proportional representation
Contracting & Procurement	Technical assistance; Mentoring; Bonding assistance	10% bid preference; "Subcontractor Compensation program": **e.g., the Adarand case**	8(a) program; Rule of two	Numeric set-asides

under this approach, shaded policies would be appropriate only in court-ordered remedies

lined programs would be available either to remedy lingering or ongoing discrimination or to increase diversity, but only if less intrusive policies are not effective

Attachment 3: An Anti-Exclusion Approach

Opportunity -- **Results**

	Opportunity Enhancing Assistance	**Advantages & Flexible Preferences**	**Set-asides**	**Quotas**
Education	Compensatory ed; Outreach & recruiting; HBCUs	Multifactor admissions policies: **e.g., UC-Berkeley**	Group-based programs: **e.g., Banneker; NIH Minority Fellowship; San Bernardino's Bridge Program**	Two-track (i.e., pre-Bakke) admissions
Employment	Outreach & recruiting; Apprenticeships; Second look programs: **e.g., the military**	Multifactor hiring: **e.g., judicial selection; the Chicago police dept.**	Exclusive job listings: **e.g., Ill.State Univ.; anecdotes from academe**	Race-normed tests to ensure proportional representation
Contracting & Procurement	Technical assistance; Mentoring; Bonding assistance	10% bid preference; "Subcontractor Compensation program": **e.g., the Adarand case**	8(a) program; Rule of two	Numeric set-asides

Results - Opportunity

under this approach, shaded policies would be appropriate only as court-ordered remedies for lingering or ongoing discrimination

THE MESSAGE WITH THREE DIFFERENT POLICY APPROACHES

GENERIC MESSAGES: Regardless of which of the three approaches we call for, we will want to stress the positive theme of opportunity, anti-discrimination and inclusion while making clear that we are anti-quota (results), against rewarding unqualified people, and against unfair burdens on innocent third parties. Yet, each of the different approaches tilts at a somewhat different angle, with somewhat different strengths and different vulnerabilities. The following seeks to play out those differences.

I. CALIBRATED OPPORTUNITY THEME:

ANALYSIS: The main paradigm that this approach sets up is opportunity versus results. Indeed it sets up a framework where we can have a hard line for opportunity and a hard offensive against results. Because we still allow "minority scholarships" the attacking results may be a better emphasis that attacking set-asides since we will have an easier time defending minority scholarship as pro-opportunity than we will be able to argue that it is not a set-aside. We also could make a decision to go hard on the anti-quota, anti- set-aside argument and simply insist that scholarships must be viewed from a "school-wide" approach and are not set-asides.

[We should recognize that despite the message of opportunity versus results, the message that comes out may be as simple as Clinton came out for affirmative action in education and employment and against it in contracting.]

STRENGTH OF MESSAGE: The strength of this message is four-fold: One, we go hard at a strong American value, opportunity, and use education as our tool -- something most Americans understand and agree with. Two, we are clearly throwing out set-asides, therefore, we have a clear message that we are not just defending the status quo. Three, more minorities are likely to be concerned with education and employment generally than contracting specifically. Four, we can play into the "empowering people to compete" message. We are against set-asides because they determine the result of a competition or limit it, while education and other help in contracting is about giving people the ability to compete, not determining the outcome.

MESSAGE LANGUAGE:

> The vision of America is a vision of providing equal opportunity to all Americans so that each Americans has the chance to succeed -- or fail -- but do so on the basis of their ability. Government can play a role in removing barriers that allow opportunity, but we go too far when we seek to guarantee results as opposed to increase opportunity. We want to give every American the tools to compete -- but government should not be determining the outcomes of the marketplace.

These same principles must be applied to affirmative action.
When affirmative action is flexible, when it focuses on merit, when it avoids unfairness to innocent non-minorities, and when it promotes opportunity and not results, we should support it. When affirmative action, is rigid, when it promotes unqualified people, and when it focuses on results as opposed to opportunity, we should be willing to strike it down.

The best way to stress opportunity is to oppose quotas, but promote affirmative steps in education, because education has always been the ultimate means in our society in which we say to people, we will give you the means to compete -- not a guarantee of how you will do. That is why when we can do so fairly, flexibly and without unfairness to innocent parties, we support reasonable consideration of race in education where we can increase the pool of people with the opportunity to compete.

Yet, affirmative action in set-asides has strayed from that principle. Rather than offering firms help in competing -- like we offer young people education to help them compete for jobs -- too many affirmative action program for contracting seek to ensure results through set-asides, or even some contracts where we essentially say, no whites should even apply. We must recognize here that while the intention is right, the means are wrong. We can still help build opportunity without guaranteeing results through efforts to provide minority contractors assistance, technical help, and even one-time advantages to ensure that new contractors have a chance to get on their feet.

WEAKNESSES AND POTENTIAL POINTS OF ATTACK:

• This is a hypocritical position because if the Administration is really opposed to quotas and exclusion, how to they justify minority scholarships that say that only blacks need apply -- and that even the poorest white, who has overcome the most disadvantages, is told that they can not even compete with the son of a black neurosurgeon, because the scholarship says only blacks need apply.

• Try telling a struggling working family who has been denied the opportunity to compete with a scholarship that the tens of thousands of dollars they were excluded from competing for is not a real result, it is only an opportunity.

• Stressing education in a results vs. opportunity theme does not necessarily provide the best context to defend affirmative action in employment which may be seen as falling more on the "result" side of the equation.

• Minority contractors will suggest that minority capitalism is the best way to give excluded minorities opportunity.

- This will not be perceived as addressing affirmative action in education or employment the two areas where whites are most likely to be concerned. (Therefore, we may wish to consider an employment)

REPLY TO POTENTIAL ATTACK: When we are attacked on scholarship, we should not only stress opportunity, but turn to the notion that we are not hurting innocent non-minorities because privately funded scholarships are about making special efforts to increase the pool of people with opportunity -- not about taking something away from somebody. We have always allowed special scholarships for all sorts of groups -- men only, women only, specific religions -- and it would be absurd to say that we only can't do special scholarships when we are trying to include outcast groups. The key is to ensure that every school offers fair opportunity to all applicants from a school-wide perspective.

POLITICAL: We will have a strong middle ground strategy. We will have strongly defended affirmative action in the areas most important to minority opportunity, yet the throwing out of set-asides will be major, controversial step that will show that the President was truly re-thinking this issue, and even willing to throw out a major affirmative action area that has strong support within the President's base, and even has its origins through Republican Administrations. The downsides risk is that the benefit with the majority of America who has doubts on affirmative action is unclear, yet the fact that this will draw huge criticism from minority supporters is far more certain. It should be noted, however, that the greater the perceived heat taken for throwing out set-asides the greater this plan will be seen as truly a strong middle ground effort.

II. ANTI-EXCLUSION APPROACH:

ANALYSIS: This strategy takes a similar line as the calibrated opportunity theme, but there would be a harder edge on being anti-quota, anti-set aside, with a strong anti-exclusionary message that we should never allow in our society the equivalent of signs to be put up that someone because of their race need not apply. While we would take a strong pro-opportunity, pro-merit and well-qualified affirmative action, this approach would allow us to take a harder anti-quota edge.

STRENGTH OF MESSAGE: Strong opposition to quotas is a strong and fundamental message. Democrats, however, while always saying they are against quotas are probably not taken seriously because they are not seen as ever opposing any specific affirmative action program. This anti-quota, anti-exclusion message however would have real power under this context, because it would be matched with real tangible and controversial stands: throwing out minority-only scholarships (education), set-asides (contracting), and minority only training remedial programs.

Because this would be extremely controversial with Democratic groups, the President would more likely to be seen as having taken a strong middle ground position, while still allowing most types of affirmative action -- although in a more flexible form. For example, in the calibrated opportunity approach, most affirmative action for contracting would be thrown out, while under the anti-exclusionary approach, affirmative action in contracting would simply have to be more flexible and allow some room for non-minorities. Race could still be considered to support minority scholarships, but would simply have to allow some alteration so that the scholarships were not only for minorities -- even if predominantly so. Thus, the strength of the issue would be that it could give a strong middle ground message while still preserving most affirmative action efforts -- albeit under a more flexible form.

MESSAGE LANGUAGE:

> The vision of America is a vision of providing equal opportunity to all Americans so that each Americans has the chance to succeed -- or fail -- but do so on the basis of their ability. Government can play a role in removing barriers that allow opportunity, but we must be vigilant in opposing quotas in all forms -- no matter how well intentioned.
>
> While some oppose all forms of affirmative action and others support nearly any advance in this area, most American do not oppose affirmative action when it is flexible, focuses on merit, avoids unfairness to innocent non-minorities. What Americans have no tolerance for is quotas and exclusionary set-asides, that put a rigid emphasis on numbers ahead of concern with merit and fairness, while also saying to many Americans -- there is no need to apply because of your race.
> Both sides of the political debate have failed the American public for too long in this areas. One side, we have politicians who support any affirmative action -- even in

extreme cases where decades of discrimination have excluded minorities entirely from important jobs and positions. On the other side are those who mouth the words that they are opposed to quotas, but are never willing to stand up and call a quota a quota and be willing to throw it out. We need to move beyond these two extremes. My policy protects affirmative action that is flexible and fair, but there are several areas where we are using quotas by sometimes another name, and it is time we ask the people who represent the public to go back to the drawing board and find another way.

That is why we must be willing to look at every area of affirmative action and be protect what is good and weed-out what functions as a quota or a race-only preference. In education, race is supposed to be one -- and only one factor that can be taken into account among reasonably qualified people to promote opportunity and ensure that our schools include all Americans. Yet, when we take some scholarships and put a sign on them that says one-race only, we are using quotas and we must be willing to ask those who have instituted them to go back to the drawing board. When set-asides shelter some contracts and say only minorities can apply, that is wrong and we must send people back to the drawing board to find ways to include all people the ability to compete. And when remedial programs designed to help African Americans become so exclusive that they will not even allow a deserving Hispanic a chance to apply, because there is a sign that says one race only need apply, that is wrong and we should tell that such programs must change.

POTENTIAL WEAKNESS:

• Clinton sounds a good game, but he would still allow racial preferences in every walk of life. President Clinton's message is that as long as something is not a technical quota, you can give racial preferences at will.

• Clinton took a major step backwards -- indeed, we would be better off with the end of the Bush Administration when it comes to minority scholarships. These are the most unobjectionable type of affirmative action that hardly hurts anyone. Indeed, now every white ethnic group in the nation can have special scholarships -- except the most persecuted group in our history. What sense does that make.

REPLY TO POTENTIAL WEAKNESS:

The President took a principled case for fair and flexible affirmative action and against quotas. He knew this would lead to strong attacks from those who feel strongly on both sides, but he has taken a principled position that appeals to the fairness of the American people.

The President is not taking step backwards, he realizes that if we want to go forward we have to be honest about the strengths and weaknesses of all of the programs.

POLITICAL ANALYSIS: *A key issue is whether the benefits of having a harder middle ground position and somewhat more consistent anti–quota position is worth the downside costs on the other side of throwing out minority scholarships. How much could the same message be made while just distinguishing minority scholarships.*

III. LEAST INTRUSIVE:

ANALYSIS: This proposal would be seen as the most status quo since there would not be any single area of affirmative action that a newspaper headline could say the President had rejected. Thus, it is mostly likely to be the most popular among Democratic base groups and most unlikely to convince most Americans that the Administration had really take a middle ground approach. They key here would be to stress not areas -- like education, employment and contracting -- but show that in all areas he is willing to crack down on affirmative action proposals that offend his notions of fairness and flexibility.

STRENGTH OF MESSAGE: The message would have to allows the President to speak directly to the concerns of innocent bystanders -- concerned non-minorities -- without dropping a bombshell on supportive groups. This approach would assume that the main benefits the President can from opposing the status quo can be achieved with less dramatic policy changes by speaking honestly to the concerns of American non-minorities, **throwing out specific cases** (as opposed to whole areas) and stressing clear principles on limiting the burdens on innocent bystanders. Therefore, this may be the way of getting the most benefits with the least costs.

POTENTIAL WEAKNESSES:

- After the expectations that have been created -- and in the context of the main Republican proposal -- the lack of any major policy alteration and the lack of any perceived outcry from Democratic base groups -- could make the President the defender of the status quo.

- From a policy perspective, without a controversial position in which the President takes on an entire policy area, the Administration may have less credibility and a weaker foundation to defend affirmative action in general.

REPLY TO WEAKNESSES:

- This is the first time a President has spoken honestly to both groups on the sensitive issue, and he laid out standards by which we should all judge these proposals.

- He made clear that he is willing to oppose affirmative action plans that cross one of several lines.

POLITICAL ANALYSIS:

It is possible that there is no middle ground approach that will please those who oppose affirmative action. The first two could end in the worst of all worlds: few points with opponents of affirmative action and real damage in our base.

On the other hand, the expectations are so high, that this could result in severe criticism for ducking a tough issue, and could help fuel opponents with the message that the Administration has no intention of changing the status quo.

DRAFT MAJOR OPTIONS

1. Contracting: What do you want to do with set asides (including bid preferences)?

a. **Phase out:** Eliminate the SDB set asides; retain the rule-of-two set aside for small business generally. Increase the investment and management attention to technical assistance, outreach, surety bond programs, and other measures to increase the pool.

> *Pro:* Current scheme is too quota-like. Unlike education set asides, this is more "result" than "opportunity."
>
> *Con:* Arguably most effective mechanism to battle discrimination and exclusion.

b. **Entryway:** Sharp narrowing and redirection. Only two or three bites at the apple, then graduation (with supports).

> *Pro:* Focus on opportunity for entrepreneurship, with no assurance of success. Complements technical assistance. "Transitional" theme limits exclusion. Bold.
>
> *Con:* Likely higher failure rates. Falls between the schools: might be criticized for destroying the current program, and criticized for tinkering with the status quo.

c. **Clean Up:** Modest reforms: faster, phased graduation; tighten test of disadvantage to screen out millionaires; limit concentrated burdens; sectoral/regional sunsets.

> *Pro:* Sustains commitment to entrepreneurship while reducing abuses.
>
> *Con:* Tinkering. Failure rates may grow. Continues majority exclusion.

d. **Status Or Need**: Reform the status quo, but also add economic disadvantage as an alternative qualification. Goal could be increased beyond 5% to prevent dilution.

> *Pro:* Less exclusionary.
>
> *Con:* Dilution may be significant. If the disadvantage test is merely the same asset test as in current program, then minority status is irrelevant.

Broader Implications: Support for *options a* or *d* raises the question of how preferences for minority businesses differ from preferences for minority job applicants or students. Moreover, bold action in this arena may have less intuitive appeal as most polls indicate that education and employment are the primary areas of public concern about affirmative action.

2. Employment: When, if ever, can race/sex be a consideration in layoffs (*Piscataway*)?

a. **Never:** Layoffs are different because of the concentrated burden, and expectations. (A permissible factor in promotion and hiring if appropriately narrow and flexible.)

Pro: Concentrated burden. Resonates with concerns about downsizing. Easy to communicate the principle.

Con: Too rigid. Assumes a sharp difference between layoffs, promotion and hiring that doesn't exist. In a specific context, diversity interest may be huge, while the employee's attachment to the job is small. Contrary to substantial industry practice.

b. **Rarely:** Balance, but the diversity interest must be unusually strong (considering nature of institution; the manifest imbalance; prior discrimination) and alternatives must be exhausted.

Pro: Reflects fact-based complexities. Can be stated with a strong presumption. Preserves commitment to diversity. Leaves private sector practices intact.

Con: Mushy. Fails to reassure employees.

Broader Implications: The absolutism of *option a* may be in some tension with support for diversity as a consideration in *promotions*. In that context, harms are concentrated and expectations often quite significant. In practice, *option b* can have an exclusionary feel, captured in the notion that certain positions are "diversity" positions for which majority applicants have little or no chance.

3. Federal Layoffs: Announce a Federal policy on use of race/sex in RIFs?

a. **Never:** Announce prohibition, to be implemented by regulation or executive order.

b. **Rarely:** Prohibited in general, but Agency Head may grant waiver for good cause so that a particular unit can attempt to maintain diversity.

<u>Pro:</u> Balancing framework implies that there may be exceptional cases. But we are unable to anticipate them, so need a safety valve. Agency heads can make judgment based on general guidance.

<u>Con:</u> Specific guidance and/or central decisionmaking (by OPM) needed to prevent abuses.

c. **Silence:** Do not address the subject.

<u>Pro:</u> Several large private sector corporations reportedly consider diversity in their personnel restructurings, just as they weigh other strategic considerations. Federal action could be a loud signal.

<u>Con:</u> Difficult to state a policy view on *Piscataway*, and not on Federal workforce.

Broader Implications: A forthcoming OPM study will show that minorities have born disproportionate burdens in recent federal downsizings. *Option a* may be seen as showing a lack of concern for this fact; *option b* may be seen as an overreaction. Overall, because the federal government has a rigid seniority system, ties arise only rarely and the **direct** practical effects of taking a position on this issue will be minimal. However, the **indirect** effect in the private sector, where seniority systems are less rigid, could be significant.

4. Education: Support for minority-only scholarships?

a. **Riley Policy:** Support the 1994 policy guidance -- conditionally approving diversity-based minority-only scholarships for both remedial and diversity purposes.

> _Pro:_ The policy, 13 months old, was a popular reversal of a restrictive draft Bush policy. Emphasizes exhaustion of alternatives, narrow tailoring and periodic review.
>
> _Con:_ There is broad public concern with education-related issues. Outside of remedial contexts, set-asides should not be used, as a matter of policy -- even if Title VI does not prohibit them as illegal discrimination.

b. **Riley Strengthened:** Support for Riley Policy, but with added emphasis on rigor of the narrow tailoring -- clearer requirement of analysis demonstrating that need-based or other neutral approaches would not suffice.

> _Pro:_ Guidelines require that institutions citing past discrimination as justification must, if challenged, produce analysis and evidence. Similar pointedness should accompany the requirements for narrow tailoring and exhaustion. Message: no casual set asides.
>
> _Con:_ Perception of retreat from Riley Policy, with nil practical effect. Guidelines are clear on the need to consider alternatives, including need-based measures.

c. **Need-Based Only:** Reverse the Riley Policy by requiring that, outside of the remedial context (*Podbersky/Maryland*), only race-neutral measures be used. Alternatively, leave Riley's Title VI enforcement guidance intact, but announce a hortatory policy position to the contrary.

> _Pro:_ Remediation may justify scholarship set asides, but diversity alone does not.
>
> _Con:_ Diversity is a bona fide consideration vital to colleges. The remedial predicate will be complicated and/or divisive to establish.

Broader Implications: Support for *option a* or *b* raises the question of how set-asides for scholarships differ from set-asides for contract or job opportunities. One could distinguish the former as more "opportunity-oriented" than the latter. **Alternatively**, one could argue that all three should be treated similarly: that is, available only when remedial or narrowly tailored to serve valid inclusive purposes.

5. Employment: Added abuse-prevention in OFCCP administration of E.O. 11246?

a. **Enhance abuse-prevention:** Amend current regulations or policy guidance in relatively minor ways to demonstrate commitment to isolate and prevent abuses. For example: (i) require that affirmative action plans of large employers include abuse-prevention as part of management training; (ii) state that plans may not permit the hiring or promotion of unqualified individuals in order to meet goals.

Pro: Underscores our anti-quota seriousness without a material change in policy. Added training may, as in the Army, prevent quotas and other abuses.

Con: Current policy is adequate and clear. New steps lend credibility to unfounded claims of abuse. Why suggest that unqualified *are* being preferred? Industry watch dogs are content. Anti-abuse measures will create regulatory burdens.

b. **Educate on current policy:** Current regulations and policy guidance expressly prohibit turning goals into quotas, as does caselaw. And OFCCP enforces on the basis of failure to make good faith efforts, *not* failure to achieve numerical goals in the Plan. Launch public education effort on these points.

Pro: Current policies are strong. Trivially few reverse discrimination complaints in the courts, OFCCP or EEOC. The public should be told the facts about current policy, without fueling anti-preference hysteria.

Con: Some public perception that goals become de facto quotas, no matter how unintended that result. More than status quo is needed to shore up support for the programs and principles.

c. **Reinvention of OFCCP:** Accelerate interagency resolution of reinvention ideas such as performance-related paperwork reduction, and raising the written plan threshold (50 employees plus $50,000 contract).

Pro: Discussions seem stalled, avoiding controversy. Inclusion of such measures would evidence the seriousness of this Review.

Con: The Reinvention matters are unrelated to fairness, and not central to the affirmative action debate. Reduction/rationalization of regulatory burden should be handled through normal NPR and OMB channels.

Broader Implications: As with the Riley Policy, the underlying issue is the signal about our posture towards the status quo.

ATTACHMENT

The Riley Policy, announced in February of 1994, permits consideration of race in financial aid policies in order (a) to remedy past discrimination and (b) to promote diversity, provided the measure is narrowly tailored and does not unduly restrict access to financial aid for nonminority students.

"Narrowly tailored" is a term of art, and includes a determination of:

(1) whether race-neutral means would have been ineffective;

(2) whether a less extensive or intrusive means of using race would have been ineffective;

(3) whether the measure is of limited extent and duration, and is applied in a flexible manner;

(4) whether the institution periodically reviews and reconfirms the continuing need for the measure; and

(5) whether the effect on nonbeneficiaries if sufficiently small and diffuse so as not to create an undue burden on their opportunity to receive financial aid.

THE PRESIDENT HAS SEEN 6/15/95

Tony Lake 6/13

George McGovern
1730 M Street, N.W., Suite 512
Washington, D.C. 20036
Tel: (202) 296-6767
Fax: (202) 296-5791

June 13, 1995

President Bill Clinton
The White House
Washington, DC

Dear Mr. President:

For many years I have been a close friend of Mr. Daniel Boyer--a prominent American businessman living in Geneva who has served as Chairman of Democrats Abroad in Europe. He is a Yugoslavian by birth and was a hero in the Yugoslav resistance to the Nazis in World War II. He is a close friend and advisor of Cyrus Vance on Yugoslavian matters.

Mr. Boyer has conveyed to me a letter addressed to you from the Bosnian Serb leader Mr. Karadzik suggesting that you convene a Camp David style conference to negotiate a settlement of the Bosnian crisis.

I do not have the expertise to evaluate Mr. Karadzik's proposal, but I pass it on for your consideration. My own bias leads me to take a careful look at any proposal that might lead to successful and honorable negotiations rather than continued conflict and a larger war.

Sincerely,

George

George McGovern

Tony | Sandy

THE PRESIDENT HAS SEEN 6/15/95

Read - we need to determine how/whether to respond - I have discussed w/ VP - BC

РЕПУБЛИКА СРПСКА
ПРЕДСЕДНИК РЕПУБЛИКЕ
САРАЈЕВО

REPUBLIC OF SRPSKA
PRESIDENT OF THE REPUBLIC
SARAJEVO

To: Bill Clinton, President, USA

8 June 1995

Dear Mr. President,

I am taking the liberty of appealing to you as the only person who can save the world from the bloody war that is looming ahead.

In 1917 R.G.D. Laffan, a British historian, wrote of us, "If ever a nation bought its union and its liberty with blood and tears, the Serbs have paid that price. For five hundred years they have never been content to submit to slavery, but have unceasingly struggled towards the light". We have not changed since 1917. The price we paid during the Second World War and under Tito s communism was enormous, but we are still prepared to fight and die for our liberty. There should be no mistake about that.

But, like people everywhere, we prefer peace. Americans and Serbs have always been friends and were brothers-in-arms in both world wars. The Serbian people cannot understand why America has turned against them. We hope that some day Americans will come to understand our position.

Serbs have lived in Bosnia for centuries, but are now accused of invading our own land. We did not want to separate from Yugoslavia and, indeed, under the Bosnian constitution, separation, should not have been possible without the consent of the Serbian community, one third of the population. What has been done has been done, however, and we are willing to live along side of the Bosnian Muslims as we have done for years, but we cannot live under Muslim rule and eventually Islamic law.

The media likes to talk of the liberal "multicultural" attitude of the Bosnian Muslims, but Mr. Izetbegovic s writings show all too clearly that he and his associates will load Bosnia down the path of Islamic fundamentalism, Iranian style. When the Shah left Iran, he was not succeeded by Ayatollah Khomeini, but by the liberal secular government of Shahpur Bakhtiar. The world knows what happened to that government, to Mr. Bakhtiar, and to Iran. The fate of Bosnia will be the same.

Whether the majority of Bosnian Muslims want to live in such a society is for them to decide. We do not want to, but we realize that we are neighbors and that a way of living side by side must be established.

What we ask of you, Sir, is to call for a "Camp David" style conference, inviting all parties to the conflict as well as representatives of the international community. We can promise you that in a short time all problems can be settled, peace signed, and normal multinational cooperation established in the Balkans, leading eventually to the region becoming part of the European Union.

We have been so many times close to a peace agreement that only questions of detail remain to be solved. However, for nearly a year no one has talked to us. The "contact group" is traveling from one place to another in Europe, contacting only themselves, and ignoring us who administer 70% of Bosnian territory, who have an army, police, schools, universities, our own currency, a well-organized judicial system, a freely elected parliament and government, etc. We are grateful that our Serbian brothers in Yugoslavia are negotiating for us, but it is our lives that are in the balance and nothing can be done without our acceptance.

If negotiations are not resumed, we are heading for a totally unnecessary war in which the United States will inevitably be involved. Already we are seeing a military build-up along the borders of former Yugoslavia and soon one force will be sent in to help another force, just as in Vietnam. No one can win, and the suffering will be immense on all sides.

I am fully aware that your government believes us to be in the wrong. The American Ambassador to the United Nations, Mrs. Albright, has called for "punishment of the Serbs". She has predecessors in wanting to "punish the Serbs". In 1914 the Austro-Hungarian Empire sent what it called a "punitive expedition" against Serbia. Austria and its ally, the German Empire, were convinced they would make a short day s work of their little neighbor. Millions died, including Americans. In 1941 Hitler, in what he called "Operation Just Punishment", launched his attempt to destroy Serbia as a nation. Like Austria he failed. The Serbs have shown we can take punishment and still fight back. We will do so again if we must. We may die, but we will not die alone.

Once again, Mr. President, we urge you to call a peace conference before it is too late. If peace is signed, there will be no need for ever-increasing forces in the Balkans. The United Nations can go home. It will regain its respectability and the United States will earn the gratitude, not only of the peoples of the former Yugoslavia, but of the world. You will be remembered in history as the President who saved peace at the last moment, not as one who stumbled into war.

President John Kennedy, in an address at Arlington Cemetery on November 11, 1961, said, "No man who has witnessed the tragedies of the last war, no man who can imagine the unimaginable possibilities of the next war, can advocate war out of irritability or frustration or impatience."

I hope you will ponder his words. America has no vital interests in Bosnia; its people have no quarrel with the Serbs. If war is started, it will be as General Shalikashvili said after the NATO bombing last month, out of frustration and impatience.

Had President Kennedy lived, many believe he would have stopped the escalation in Vietnam and its dreadful consequences for America and the Vietnamese people. An unfair destiny prevented him. You, however, can stop this war.

РЕПУБЛИКА СРПСКА
ПРЕДСЈЕДНИК РЕПУБЛИКЕ

Yours sincerely,

Dr Radovan Karadzic
President Republic of Srpska

THE PRESIDENT HAS SEEN
6/15/95

Good (N) – I think we should send packets to all Editors who endorse me – maybe to any Dailies – and to any major TV stations in all 50

95 JUN 14 P7:16

THE WHITE HOUSE

WASHINGTON

June 14, 1995

MEMORANDUM FOR THE PRESIDENT

From: Mark Gearan MG

Subject: Amplification of Balanced Budget Announcement

cc: Leon Panetta and Erskine Bowles

(2) also DNC should send to all DNC members

(3) State Dems should send summary + cover to county chairs

A comprehensive packet which includes a summary explanation of the budget plan, talking points and back-up tables has been created and used to support Tuesday night's budget announcement. Listed below is a summary of the immediate amplification which used these materials following your address.

(4) all Delegates to WH Sm Bus Conf should get something

Cabinet Affairs

- The packet and transcript of Leon Panetta's briefing were e-mailed to 1,800 political appointees who distributed it to the entire group of over 3,500 appointees as well as the regional administrators.

(5) FOB List

- All Cabinet Secretaries received the packet and briefing.

(6) should do extra outreach to St. officials

- Agency chiefs of staff distributed the packet to their Public Affairs offices who shared it with beat reporters and to their Public Liaison offices who distributed it to constituency groups.

to all int grps unless we can be sure they do – BC

Communications

- The packet and abbreviated talking points were faxed and mailed to the top 100 Washington-based friends of the Administration as well as the expanded consultants group.

- "Pocket cards" are being distributed to senior staff and outside opinion leaders who may use them during interviews.

Intergovernmental Affairs

- The talking points were distributed to the seven major intergovernmental organizations: U.S. Conference of Mayors, National Governors Association, National Conference of State Legislatures, National Association of Counties, National League of Cities, Council of State Governments, ICMA.

Intergovernmental Affairs, con't:

- The talking points were distributed to all Democratic statewide elected officials: 19 Governors, 23 Lieutenant Governors, 25 Attorneys General, 23 State Treasurers, 19 Secretaries of State, 58 State Senate Leaders, 59 State House Leaders as well as 61 Democratic Big City Mayors. The packet is being mailed to this group.

- The packet was distributed at a White House briefing for the seven major intergovernmental organizations, the Democratic Governors' Washington Representatives, the Democratic Mayors' Washington Representatives. These organizations will distribute the materials to their membership.

Internet

- Over 250,000 Internet users have access to the packet.

Legislative

- The Democratic Leadership, all Democratic Members of Congress, and Democratic staff received the packet.

Media Affairs

- Talking points were faxed to over 400 specialty press outlets.

- Senior Administration officials made over 30 editorial board calls and conducted interviews into over 40 targeted radio markets.

- Conference calls and one-on-one interviews with Senior, African-American and Hispanic press are taking place.

- The packet is being mailed to the top 150 editorial boards.

Political Affairs

- All Democratic State Party Chairs and Democratic candidates are receiving the packet through the DNC, DCCC and DSCC.

Press Office (Lower/OMB)

- The packets were distributed to reporters at both Leon Panetta's embargoed briefing and the health care briefing.

- The packets are always available for reporters through the lower press and OMB press offices.

Public Liaison

- The budget talking points were faxed to over 4000 people.

- Over 200 representatives of a cross-section of constituency groups (Education, Health, Veterans, Business, Seniors and Social Welfare) were briefed by senior Administration officials at the White House.

- Conference calls to state "networks" (Women, Ethnics, Hispanics, Education, Non-Profit, Religious, and African-American) are taking place.

Office of the Vice President

- The Vice President appeared on morning shows following your address.

THE WHITE HOUSE
WASHINGTON

June 14, 1995

TO: Jim Dorskind

FROM: Todd Stern TS.

Would you please coordinate a reply to Robert Redford with Katie McGinty.

Thank you.

Trey

cc: K McGinty
VP

Gertie
Please do reply for

ROBERT REDFORD

Rec'd Trey
6/12

THE PRESIDENT HAS SEEN
6-13-95

May 23, 1995

President Bill Clinton
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

Dear President Clinton:

It would be a gross understatement to say a lot has changed since I stopped by to see you early last fall when I was in Washington for the release of "QUIZ SHOW." Surely it didn't come out of nowhere. However, I'm still taken with the breakneck speed of it all. I'm taken with how quickly my worst nightmares have become reality. I remember someone saying during the Reagan years that never before in the history of our country had a President done so much for so few. As absurd as it seems, those days pale in comparison to today, and the actions of this Republican controlled Congress.

But, I welcome the fight. I'm energized by it. I get the feeling you are too. And I think we're beginning to see more and more people across the country finally understanding what's going on, and what it really means. People are slowly but surely tuning in to the massively negative human consequence of it all.

With that said, I want you to know that <u>I firmly support you vetoing the current Supplemental Appropriations and Rescissions Act</u>. Clearly, the environment is important to me and a lot of others. So is education, public health, economic opportunity for more people, and a greater level of safety in our homes, streets and schools.

I'm aware that your threat of veto is not primarily driven by the logging provision and your aides have said as much. But, you did the important thing and specifically spoke out against the suspension of existing federal environmental laws to benefit timber companies. I'm sure the tens of thousands of people who cared enough about maintaining their environmental protections to send you the recent flood of messages about it, heard your message as well.

The concern about this particular logging provision goes well beyond trees, and the people who contacted you know it. It's bad enough that it allows unrestricted logging of healthy forests, damages them rather than protects them, and financially benefits the timber industry at the expense of taxpayers.

But as serious is the fact that this provision blatantly undermines the democratic process. It permits industry to ignore major existing environmental laws, and it allows this without as much as one hearing or one public comment on such sweeping changes. This is as much about our rights and freedoms as citizens of this country as anything else.

America wanted the Clean Water Act, National Forest Management Act, National Environmental Policy Act, Endangered Species Act and a Wild and Scenic Rivers Act--and they were passed into law. Each of these existing laws will be undermined with no due process whatsoever.

Battles over what we call environmental issues loom all over the map. They're as much about the freedom that comes with an environment that doesn't oppress us, public health and safety, and economics as they are about habitat and species, and we should start talking about them that way. Let's face it, gutting the Clean Water Act isn't going to hurt industry. It's going to hurt real people, a lot of real people. The riders undermining the Clean Air Act aren't going to help the family in South Central Los Angeles.

They're going to help industry. It's ironic that at the same time the health care crisis is being debated, there's a move to advance policies which are sure to make people sick.

Every poll and focus group report meant to gauge public sentiment toward the environment conducted since the last election shows a majority of voters wanting their environmental protections maintained and enforced. They care about their natural resources and their health and safety. The more focus brought to bear on the spurious reasoning behind the current move to gut 25 years of environmental protections, the more it will impact the public outcry necessary to beat it back. And there's no doubt it will impact how people vote if we keep the real story before them. A lot of us are working hard to make sure this happens and look to you to take the lead in the fight.

I am grateful for your time and look forward to having an opportunity to talk with you sometime in the near future.

Sincerely,

Recd Tray 6/12

ROBERT REDFORD

Aney

cc: K McGinty

UP

Quetzie

Please do reply Next

THE PRESIDENT HAS SEEN
6-13-95

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President Bill Clinton
The White House
1600 Pennsylvania Ave., NW
Washington, D.C. 20500

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I am grateful for your time and look forward to having an opportunity to talk with you sometime in the near future.

Sincerely,

THE PRESIDENT HAS SEEN
6/14/95

THE WHITE HOUSE

WASHINGTON

95 JUN 9 P5:46

MEMORANDUM FOR THE PRESIDENT
cc: Leon Panetta; Erskine Bowles; Harold Ickes

FROM: Laura D'Andrea Tyson and John Emerson

DATE: June 9, 1995

SUBJECT: Pacific Rim Economic Conference

The Pacific Rim Economic Conference is set for June 27, at Portland State University. Roughly 225 participants will attend from California, Oregon, Washington, Alaska and Hawaii. While the Conference will be similar in structure to the March event in Atlanta, we have modified the format and tailored the substantive discussion to the region.

As in Atlanta, the basic objectives of the conference are to enable you to move the debate on the economy and the proper role of government out of Washington and to the people; to communicate that you are on the side of working people; and to dramatize that the Clinton economic strategy is building and improving the economy of this crucial region.

The Pacific Rim exhibits both the opportunity and the challenge that comes from economic change. Opportunity is demonstrated in the growth of new industries, like high- and advanced-technologies; in the creation of new markets, and growing exports; and in the explosion of service industries. Challenge is demonstrated in the downsizing of defense, aerospace and related industries; in the weakening real estate and homebuilding markets (especially in California); and in the diminishing natural resources so crucial to the regional economy. Unemployment, while decreasing since 1993, remains the highest of any region.

We suggest the following structure and substantive outline for the conference:

Structure:

As in Atlanta, conference participants will be welcomed at a reception and dinner hosted by the Oregon business and political community, featuring the Vice President. This will allow participants to become acclimated and us to meet political needs.

The Conference itself will consist of three panel discussions rather than four, with fewer panelists than at Atlanta. This should allow for a more free flowing discussion, and reduce the tendency of panelists to deliver speeches.

In order to give all participants a greater involvement, prior to your arrival we will conduct breakout sessions, with each attending cabinet/sub-cabinet official conducting a small group discussion with ten to fifteen participants. The discussion topics will reflect the content of the three panels. Panelists will be able to refer to comments made in the earlier breakout sessions during the conference.

Outline of Panels:

I. The Regional Economy: Confronting the Challenges of the Pacific Rim.

This panel will feature businesses and workers that are coping with, and taking advantage of, change. It will demonstrate your familiarity with these issues and your hard work to ease the pain of economic transition and build for future prosperity. The discussion will address changes in manufacturing, services, and natural resources, and will include topics such as defense conversion and resource management. It will also identify the risks to the region posed by federal budget cutbacks.

II. The Strains on Working Families

We recommend that panel II focus on the strains on the working family within the context of education. Like panels II and III in Atlanta, this session would primarily feature working people. The discussion would encompass financial strains particularly as they relate to post-secondary education; parental involvement (time parents spend helping their children to learn); education and training in the new economy; and issues of school safety and drugs. Please note that in Atlanta, panels II and III addressed strains on the working family but included a broader range of issues such as health care, child care, and long term care. The panel we suggest here does not cover as many topics but will provide an opportunity for more depth.

III. Growth and Job Creation: Innovation and Open Markets

This panel continues the theme of "change as an opportunity" by focusing on two elements of the Administration's economic strategy that have particular importance for the region: innovation and open markets. Topics would include new ways of doing business and creating jobs; advancing technology and communications; and success in the international economy. Innovations in the health care and biomedical fields would provide the possibility for discussing health care issues during this panel. As in Atlanta, the Vice President would moderate this panel. You would participate in the discussion, and then close the Conference.

Please give us your thoughts as we move forward.

THE WHITE HOUSE

WASHINGTON

Dear Pat:

I deeply appreciate your letter of May 23rd regarding the design for the "President's Park". It so happens that I have heard the story of President Kennedy's inaugural parade, and I was aware of the important leadership role you played in the redevelopment of Pennsylvania Avenue over the last three decades.

I did not know that L'Enfant's plan contemplated a park north of the White House, although I am certain that Roger Kennedy is familiar with this. Your recommendation that he should help lead our design efforts carries great weight with me. I have instructed Secretaries Rubin and Babbitt to work closely with Roger as we make progress toward adopting a final plan. Because of your long involvement with the development of Pennsylvania Avenue since the Kennedy years and your singular expertise on this subject, I have also asked that you be consulted and kept informed as the Administration's work on the "President's Park" moves forward.

Sincerely,

Bill Clinton

The Honorable Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Daniel Patrick Moynihan
New York

United States Senate
Washington, D. C.

'95 MAY 23 P7:29

May 23, 1995

Dear Mr. President,

You have likely heard the tale of President Kennedy riding up Pennsylvania Avenue in his Inaugural parade. On his left was Andrew Mellon's Federal Triangle, unfinished from the great depression. On his right, rows of near-to-derelict two and three-story buildings. Later that afternoon he mentioned this to Arthur Goldberg, who in turn set me to work. On May 23, 1962, the President approved a report calling for, among other things, "The Redevelopment of Pennsylvania Avenue."

The essential idea was that the L'Enfant plan was a sketch of the Constitution, showing both the separation of powers and the unity of the government. It was essential to keep the area vital. A design committee was set up. The last instruction President Kennedy gave before leaving for Dallas was to arrange on his return a meeting with the Congressional leaders to show the plan. One of two requests Mrs. Kennedy made of President Johnson, on leaving the White House, was that he continue that work. It has gone forward ever since, with, curiously, each successive President involved with some specific project.

May I suggest that you might finish the enterprise in triumph with the design of the park now to be located on the north side of the White House. You will be interested to know that the L'Enfant plan shows Pennsylvania Avenue going from the "Congress house" to the "President's house" and continuing beyond, but <u>not around</u>. To the contrary, on the north side there is a park extending to K Street. This is essentially the plan of the King map of 1818, with the park foreshortened to H Street.

The task now is to settle on a design. Here, I dare to say, you are in luck. For the past several years Roger Kennedy, as Director of the National Park Service, has headed a commission of a dozen Federal agencies, including the Secret Service, on the general subject of the President's Park. This is to say the area from Lafayette Square down to the Mall. They address the subject of the President's security, the general needs of the government, access of visitors, and the like.

Kennedy is just the man Jefferson would have picked for the job now before you. A man of Enlightenment tastes, he has been a lawyer, a scholar, a writer, and a public servant of the first rank, but his avocation has always been architectural history. He has written brilliantly on the design and setting of American neoclassical buildings such as the White House. I would urge that Secretary Rubin get in touch with him. (For most of our history, the Supervising Architect of the Treasury was responsible for these matters. Hence, Mellon's Federal Triangle.) It is a rare opportunity. If I can be of assistance up here, please let me know. It has been something of a life's work!

Respectfully,

The President
The White House
Washington, DC 20500

cc: The Honorable Robert E. Rubin

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 103^{d} CONGRESS, SECOND SESSION

Vol. 140 WASHINGTON, THURSDAY, JULY 14, 1994 *No. 91*

Senate

THE DEATH OF JACQUELINE KENNEDY ONASSIS

Mr. MOYNIHAN. Mr. President, Jacqueline Onassis touched the lives of millions through her remarkable conduct as First Lady, her courage during a shattering national tragedy, and her ability to then raise two beloved children and succeed brilliantly in a career in publishing.

Yet there is even more to be added to the Senate's account of her achievements--her many contributions to the life of America's two greatest cities--New York and Washington, DC. Characteristically, she never sought recognition for these efforts, but they were significant ones and ought to be recorded for history.

In New York City, which was her home and which she loved, Mrs. Onassis was for the last two decades a member of the Municipal Art Society, the 102-year-old organization dedicated to historic preservation and the furtherance of civic art in New York.

As Senator Kennedy observed in his eulogy, she was much involved in the society's efforts to preserve Grand Central Terminal. Senators may recall the news photographs of her outside Grand Central with the architect Philip Johnson and others in 1975. She led the fight to stop an awful proposal to erect a 53-story office tower atop the magnificent 1913 Beaux Arts Terminal, and ultimately prevailed when in 1978 the U.S. Supreme Court upheld the New York City landmarks law that protected the station.

She also applied her considerable energies and talents to the revitalization of Times Square; to efforts to revive Manhattan's West Side riverfront; to the preservation of St. Bartholomew's Church, and to the protracted fight against a plan to build a skyscraper at Columbus Circle that would have cast a giant shadow over Central Park.

Her influence on the city of New York was profound, yet her legacy in the area of civic improvement is perhaps even greater here in the Nation's Capital.

During his inaugural parade in 1961, President Kennedy looked at the north side of Pennsylvania Avenue, then lined with an assortment of structures in varying states of dilapidation and the unfinished Federal Triangle on the south side, and decided that something had to be done with it. He gave this task to Arthur Goldberg, then Secretary of Labor, who in turn assigned it to me, then Secretary Goldberg's assistant. This led to the creation of the President's Commission on Pennsylvania Avenue--later the Pennsylvania Avenue Development Corporation--which produced the plan for developing the 1.1-mile stretch of the avenue between the White House and the Capital.

One of the last instructions President Kennedy gave before departing for Dallas was that a coffee hour be arranged for the congressional leadership in order to display the model of the Pennsylvania Avenue plan and seek their support. Bill Walton, Charles Horsky, and I were at lunch discussing this on November 22, 1963 when the White House operator called with the news that the President had been shot. We made our way to the White House; the final word came. We left with this task undone. Or would have had it not been for the intervention of Mrs. Kennedy.

Soon after President Kennedy's funeral, she met with President Johnson in the Oval Office. Their conversation was later recounted by Mrs. Kennedy in an interview she gave on January 11, 1974 to Prof. Joe B. Franz of the University of Texas at Austin. Professor Fránz conducted the interview in Manhattan for an oral history of the Johnson administration. Here is an excerpt from the transcript of Mrs. Kennedy's remarks:

I remember going over to the Oval Office to ask him for two things. They were two things I thought that I would like to ask him as a favor. One was to name the space center in Florida "Cape Kennedy." And there were plans for the renovation of Washington and there was this commission, and I thought it might come to an end. I asked President Johnson if he'd be nice enough to receive the commission and sort of give approval to the work they were doing, and he did. It was one of the first things he did.

Jacqueline Kennedy asked for Pennsylvania Avenue, for the continuation of the President's Commission on Pennsylvania Avenue. And coming from Mrs. Kennedy, this request understandably made a claim on President Johnson and on his administration. As it did on me. The enterprise soon acquired official sanction, having been wholly informal under JFK. And it moved forward. By the time President Nixon left office, the Pennsylvania Avenue Development Corporation had been established by act of Congress. Today, with construction of the Federal Triangle building at 14th Street well underway, a third of a century's work is nearly complete--and Jackie made it all possible.

A few years back, as the last major features of the redevelopment fell in place, I received from her perhaps the most precious letter I will ever receive from anyone. "Twenty five years," she wrote, "is a long time not to give up on something." Then this:

I will be forever grateful dear Pat, for your message to me along the way, for the spirit you brought to something Jack cared about so deeply, and for this happy ending.

The poet Yeats said of a man that he was blessed and had the power to bless. Those few lines of Jacqueline Kennedy Onassis suggested how very blessed she was in spite of all that came to her as she traveled, in Maurice Tempelsman's words, to Ithaca.

On the morning of May 23, Liz and I attended her funeral at the Church of St. Ignatius Loyola on East 84th Street in Manhattan, the same church where she was baptized as a child. We knew and loved Jacqueline Kennedy Onassis all these many years, and never more than of late when she so wondrously, luminously contributed to any enterprise that might add grace and beauty to the city of New York. She adorned New York as she had adorned Washington before, much as she embellished our age.

---<>---

THE PRESIDENT

6-14-95

Dear Bruce

Please look into Sen. Moynihan's suggestion. It looks good to me — Call Bob Rubin and discuss —

Thanks,

Bill

The Honorable Bruce Babbitt
Secretary of the Interior
Washington, D.C. 20240

VIA SPECIAL MESSENGER

THE PRESIDENT

6-14-95

Dear Bob -

Please look into Sen. Moynihan's suggestion - It looks good to me -

Thanks

Bill

The Honorable Robert E. Rubin
Secretary of the Treasury
Washington, D.C. 20220

VIA SPECIAL MESSENGER

THE PRESIDENT HAS SEEN
6-13-95

JIMMY CARTER

6/8/95

To President Bill Clinton

I have accepted an invitation from the Chairman of the Senate Armed Services Committee and from Senator Nunn to testify regarding Bosnia. As a matter of courtesy, I wanted to inform you.

I intend to be as positive & constructive as possible.

General John Galvin will be with me.

Best wishes,

Jimmy

cc: T. Lake

THE WHITE HOUSE
WASHINGTON

June 14, 1995

TO: Jim Dorskind

FROM: Todd Stern TS

For appropriate handling. Thank you.

U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR
409 THIRD STREET, S.W.
WASHINGTON, D.C. 20416

FAX MESSAGE

DATE: 6-13-95 | 8 PAGES + COVER

TO: PAM MADARIS
FOR ERSKINE B. BOWLES

FAX#: 456-6703
PHONE#: 456-1961

FROM: CASSANDRA PULLEY
DEP. ADMIN

FAX#: (202) 205-6802
PHONE#: (202) 205-6605

SUBJECT: RESPONSE TO QUESTIONS - DES MOINES CHAMBER OF COMMERCE

MESSAGE:

Pam- If y'all need anything else, please let us know-
Regards to EB-
Miss you both
Cheers,
Gracie

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

June 13, 1995

TO: Erskine B. Bowles
Deputy Chief of Staff to the President
The White House

FROM: Cassandra M. Pulley
Deputy Administrator
Small Business Administration

SUBJECT: Response to Questions - Des Moines Chamber of Commerce

The following address certain questions posed to the President by Mr. Jonathon Narcisse at the recent Des Moines Chamber of Commerce meeting.

Q - Why has the SBA not traditionally allowed funding or technical assistance support in the following three areas:

- **Funding in unregulated media:**

  Effective September 21, 1994, SBA repealed the media policy also known as the "Opinion Molder rule." Attached is a copy of the Policy Notice that created a very broad list of newly-eligible enterprises which includes broadcasters, movie theaters, publishers, producers, importers, exporters or distributors of all types of communications, such as newspapers, sheet music and books.

- **Development and acquisition of financial institutions:**

  There is no prohibition of SBA providing [through its private sector resources, the Senior Corps of Retired Executives (SCORE) or the Small Business Development Centers (SBDCs)] technical assistance to financial institutions. The Agency has held for many years that financial assistance through the 7(a) and Certified Development Company (CDC) lending programs cannot be provided to small businesses that are engaged in lending or investment. SBA does support the lending industry by providing guarantees on loans that a lending institution provides to small business.

  In addition, through its Small Business Investment Company (SBIC) and Specialized Small Business Investment Company (SSBIC) programs, the SBA licenses private venture-capital firms and supplements their capital with U.S.

government-guaranteed debt or participating securities. The SBICs and SSBICs, in turn, make equity investments and long-term loans to small businesses. As with loans made through the 7(a) and CDC programs, the investment companies are prohibited from making loans to, or investments in, small businesses that are engaged in lending or investment.

- **Development and acquisition of Land:**

  The SBA provides financing for the acquisition and development of land and the acquisition of buildings intended to house the borrower small business. We also provide financing to small general contractors to finance the construction or renovation of residential or commercial buildings that will be offered for sale. (A fact sheet on this program is included.) Except as noted in the response to the previous question, by statute, the SBA is not allowed to provide funds for investment or speculation.

Q - Regarding the limit on the number of individuals who can invest before a business can become a registered corporation: (He said that in rural and inner city areas, it is especially hard to get 25 - 30 people to invest 20 - 30 thousand dollars, but they might be able to get 50 to 100 people to invest 500 to 1000 dollars.)

The SBA does not require a predetermined number of investors in a registered corporation. The Agency accepts a corporation based on the requirements of the state in which the corporation is registered.

SBA Policy Notice

TO: **All RAs, ARAs/ED, DDs, ADDs/ED, BMs, ABMs/ED, All Economic Development Personnel**

CONTROL NO.: 5000-456

SUBJECT: **Repeal of the Media Policy or Opinion Molder Rule**

EFFECTIVE: 9/21/94

Effective immediately, the media policy or opinion molder rule of Small Business Administration (SBA) has been repealed. The Federal Register, dated July 15, 1994, amended Parts 108, 120, and 123, Chapter 1, Title 13, Code of Federal Regulations to reflect this repeal. The media policy rule was repealed in order to make eligible for SBA business, and development company loans all businesses which previously had been ineligible.

The SBA is aware that small media concerns often have difficulty raising capital or borrowing money. By the repeal of our media policy rule, approximately 75,000 small business concerns in the affected industries are now eligible for participation in the SBA's loan guaranty program. These small business concerns account for approximately 95 percent of the businesses in those industries. This change will enable SBA to promote job growth and economic development by making our financial assistance available to a larger number of small business concerns.

The repeal creates a very broad list of newly-eligible enterprises which includes broadcasters, movie theaters, publishers, producers, importers, exporters or distributors of all types of communications (such as newspapers, sheet music, posters, film, tape, theatrical productions, greeting cards, and books), plus transportation concerns limited to the distribution of such products. Part 121 of SBA regulations contains the size standard for these industries.

Under this change, credit-worthy small business concerns engaged in media industries will be eligible to be considered for SBA financial assistance unless they are otherwise ineligible. The Agency reserves the right to withhold financial assistance on a case-by-case basis when the extension of assistance would be in violation of a statute or the Constitution.

Our present regulatory apparatus and administrative practice for screening applicants for such financial assistance are sufficient to protect the public interest. In this regard, the present credit criteria under which applications for such assistance are reviewed, and the prohibition on funding illegal activities should be sufficient to provide the desired level of protection.

The Office of General Counsel will provide SBA field personnel with guidance and advice on loan applications which are referred to that office because of Constitutional or other legal concerns.

SOPS 5010, 5022, 5060, AND 5061 will be revised to reflect this change.

Erskine B. Bowles
Administrator

(c) § 745.202(a);
(d) § 747.609(d);
(e) § 747.616;
(f) § 791.8(c);
(g) § 792.2(g)(1);
(h) § 792.22(a);
(i) § 792.26(e);
(j) § 792.27(a);
(k) § 792.27(c);
(l) § 792.40.

12. Remove the address "1776 G Street NW., Room 7261, Washington, DC 20456" and replace it with "1775 Duke Street, Alexandria, VA 22314–3428" in § 794.170(c).

13. Section 701.14(f) is amended by revising the last sentence to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(f) * * * The Notice of Disapproval will advise the parties of their rights of appeal pursuant to 12 CFR part 747 subpart J, of NCUA's Regulations.

14. Section 747.307(a) is amended by revising the first sentence to read as follows:

§ 747.307 Hearing.

(a) Upon receipt of a request for a hearing which complies with § 747.306, the NCUA Board will order an informal hearing to commence within the following 30 days in the Washington, DC metropolitan area or at such other place as the NCUA Board designates before a Presiding Officer designated by the NCUA Board to conduct the hearing. * * *

* * * * *

15. Remove the title "Administrative Office" and replace it with "Office of Administration" in the following places:
(a) § 792.24(b)(3);
(b) § 792.26(a);
(c) § 792.37(a);
(d) § 792.50(a);
(e) § 794.170(c).

16. Remove the letters "GS" and replace them with "CU" in § 792.5(b)(1)(i), (b)(1)(ii), and (b)(2).

17. Section 790.2 is amended by adding a new fourth sentence to paragraph (b)(1); by removing the phrase "the Freedom of Information Act." from the second sentence of paragraph (b)(3); by redesignating the two paragraphs contained in paragraph (b)(6) as paragraphs (b)(6) (i) and (ii); by removing the phrase "and economical reports and research papers on market trends affecting credit unions" from the end of the first sentence of newly designated paragraph (b)(6)(i) and replacing it with the word "reports"; by adding new paragraph (b)(6)(iii); by adding a new fourth sentence to paragraph (b)(8); by removing the word "training," from the fourth sentence of paragraph (b)(9); by adding new paragraphs (b) (13), (14) and (15) and by removing paragraphs (d) and (e) to read as follows:

§ 790.2 Central and regional office organization.

* * * * *

(b) * * *

(1) * * * The Chairman shall be the spokesman for the Board and shall represent the Board and the NCUA in its official relations with other branches of the government. * * *

* * * * *

(6) *Office of Examination and Insurance.* * * *

(iii) *NCUA Central Liquidity Facility (CLF).* The CLF was created to improve general financial stability by providing funds to meet the liquidity needs of credit unions. It is a mixed-ownership Government corporation under the Government Corporation Control Act (31 U.S.C. 9101, *et seq.*). The CLF is managed by the NCUA Board, which acts as the CLF Board of Directors. The Chairman of the NCUA Board is the Chairman of the CLF Board of Directors. The Secretary of the Board serves as the Secretary of the CLF.

* * * * *

(8) * * * The Office has responsibility for processing Freedom of Information Act requests and appeals. * * *

* * * * *

(13) *Office of Community Development Credit Unions.* This Office is responsible for coordinating NCUA policy as it relates to community development credit unions, including those credit unions designated as "low-income." The Office administers the Community Development Revolving Loan Program for Credit Unions (Program). This Program was funded from a congressional appropriation and serves as a loan and technical assistance vehicle for low-income credit unions. The Office Director serves as Program Chairman and authorizes loans and technical assistance to participating credit unions. The Program is governed by part 705 of subchapter A of this chapter.

(14) *Office of Chief Economist and Policy Development.* The Office is responsible for developing and conducting research projects and analytical studies in support of NCUA programs, including the fields of cooperative thrift, credit, investments and the impact of the national economy on the credit union movement. The Office will make periodic reports on its activities for the information and use of agency staff, credit union officials, state credit union supervisory authorities, and other governmental and private groups. The Office also provides policy advice to the Board and senior agency staff.

(15) *Office of Training and Development.* This Office provides a comprehensive program for the training and development of NCUA's staff. The Office is responsible for developing policy, consistent with the Government Employees Training Act, related to its training program; for providing training opportunities equitably so that all employees have the skills necessary to help meet the agency's mission; for evaluating the agency's training and development efforts; and for ensuring that the agency's training monies are spent in a cost efficient manner and in accordance with the law.

* * * * *

18. Section 792.2 is amended by revising the second sentence of paragraph (f), the first sentence of paragraph (g)(1) and the last sentence of paragraph (g)(2) as follows:

§ 792.2 Information made available to the public and requests for such information.

* * * * *

(f) *Information centers.* * * * The Freedom of Information Officer of the Office of General Counsel is responsible for the operations of the Information Center maintained at the Central Office. * * *

(g) *Methods of request.*

(1) *Indices.* Requests for indices should be made to NCUA, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314–3428. * * *

(2) *All other records.* * * * When the location of requested records is not known, or it is known that such records are located in the Central Office, the request should be addressed to the Freedom of Information Officer of the Office of General Counsel at the address noted in paragraph (g)(1) of this section.

* * * * *

[FR Doc. 94–17161 Filed 7–14–94; 8:45 am]

BILLING CODE 7535–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 109, 120, and 123

Media Policy Rule

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: SBA is repealing its media policy or opinion molder rule. Under this final regulation, creditworthy small business concerns engaged in media activity will be eligible to be considered for SBA financial assistance unless they are otherwise ineligible. Under the final regulation, SBA reserves the right to withhold financial assistance on a case-by-case basis when the extension of assistance would be in violation of a statute or the Constitution. This action is being taken to enable SBA to promote job growth and economic development by making SBA financial assistance available to a larger number of small business concerns.

EFFECTIVE DATE: July 15, 1994. The amendment of Part 123 is effective for disasters which occur on or after July 15, 1994.

FOR FURTHER INFORMATION CONTACT: John R. Cox, Assistant Administrator for Financial Assistance, 202/205-6490.

SUPPLEMENTARY INFORMATION: On April 5, 1994, SBA published in the **Federal Register** a proposed regulation repealing its media policy rule (59 FR 15872). SBA received 143 comments which favored the repeal, and two comments against it. The majority of the affirmative commenters represented the owners of motion picture theaters and bookstores. They noted that the proposed repeal by the Agency would allow many small business concerns throughout the country, but particularly in rural areas, to obtain urgently needed financial assistance for maintenance, upgrading, and growth. While one of the commenters favored the proposed repeal, he voiced concern about SBA providing financial assistance to adult motion picture theaters. As is noted below, SBA will consider the constitutional and legal implications of the repeal of the present rule, as they arise on a case-by-case basis. However, the Agency does not consider the need to deal with these implications as sufficient to prevent it from going forward with the general repeal. Accordingly, the Agency is promulgating the repeal is proposed.

Under SBA's existent regulatory policy, no SBA direct or guaranteed business loan, economic injury disaster loan, or development company assistance has been made to an applicant engaged in the "creation, origination, expression, dissemination, propagation or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form or content." (13 CFR § 120.101-2(b) (1993)). There are several express exceptions to this prohibition.

This policy was originally adopted by SBA in 1953 under the authority granted by Section 4(d) of the Small Business Act (15 USC 633(d)) which authorizes the Agency to "establish general policies (particularly with reference to the public interest * * *), which shall govern the granting and denial of applications for financial assistance by the Administration." The Reconstruction Finance Agency, the predecessor to SBA, had a similar media policy rule.

There were three basic reasons for the policy: First, the prohibition was based upon SBA's desire to avoid any possible accusation that the Government was attempting to control editorial freedom by subsidizing media or communication for political or propaganda purposes. Second, the Agency has generally sought to avoid Government identification through its business assistance programs with concerns which might publish or produce matters of a religious or controversial nature. Third, SBA recognized that the constitutionally protected rights of freedom of speech and press ought not to be compromised either by the fear of Government reprisal or by the expectation of Government financial assistance.

Over the years, Congress has considered the policy and has not objected to SBA's approach. In H.R. Rep. No. 840, 94th Cong., 2d Sess. 28 (1976), the Subcommittee on SBA Oversight and Minority Enterprise acknowledged that SBA's statutory duty to assist small business

> Must be in balance with supervening First Amendment prohibitions. The Subcommittee does not believe that the SBA should engage in activities which would necessitate its assumption of a censorship role. By censorship we mean the ability of SBA to direct a business as to what it can do or cannot do, relative to First Amendment protected activity, coupled with the power to enforce its will through the use of sanctions. The subcommittee believes such censorship would exist if SBA were to place in its loan agreements a prohibition against the promulgation of certain ideas and values, a breach of which would allow the Agency to liquidate the loan.

However, many individual Members of Congress have expressed concern with the substance of SBA's regulations in this area. Several bills have been introduced to revise the rule legislatively, although none has been enacted. For example, S. 2084, 98th Cong., 2nd Sess. (1984), would have abolished the rule except in cases where the financial assistance would have been used primarily to (1) advance or inhibit religion; (2) threaten the overthrow of organized Government by unlawful means; or (3) engage in any illegal activity or the dissemination of obscene materials which may be unlawful in any jurisdiction in which the small concern may operate. S. 2084 also would have required SBA to look at the content of the publications or communications in making its decision to assist a particular small concern.

H.R. 1157, 98th Cong., 1st Sess. (1983), would have required SBA to hold a hearing, if the business was covered by the media policy rule, in order to ascertain if the SBA financial assistance would have been (1) adverse or detrimental to a legitimate public interest, or (2) used primarily to promote or criticize political or religious ideas. This approach would have led to lengthy hearings on applications for assistance every time the Agency interpreted the law adversely to an applicant.

SBA testified on both of these bills and supported a legislative remedy to the problems associated with administration of the rule. However, no legislation has been forthcoming.

In hearings on March 7, 1984, before the House Subcommittee on Export Opportunity and Special Small Business Problems, which was considering H.R. 1157, an expert in Constitutional Law on the faculty of the George Washington University Law School testified that the media policy rule was constitutional and was a justifiable approach in light of SBA's business and financial orientation and limited First Amendment expertise. However, there have been concerns raised over the years regarding the breadth of the present rule.

The regulation presently provides a very broad list of ineligible enterprises which includes publishers, producers, importers, exporters or distributors of all types of communications (such as newspapers, sheet music, posters, film, tape, theatrical productions, greeting cards, and books), plus transportation concerns limited to the distribution of such products. Regulatory exceptions have been granted to commercial printing firms, advertising agencies, technical production facilities (such as a recording studio), and vocational schools. Eligible for assistance based on administrative interpretations are general merchandise stores which sell books, magazines and newspapers, and general book, music, record or videotape stores. Not eligible for assistance are specialty book or videotape stores which sell or rent items in a single or limited subject area. The rationale underlying the distinction between general and specialty stores has been that a general store covers a broad range of ideas, values and thoughts, rather than a particular or narrow set of ideas or values. SBA no longer regards this distinction as a proper basis for determining eligibility.

SBA is well aware that small media concerns often have difficulty in raising capital or borrowing money. The media policy rule applicable to the financing of business loans has not been applied to assistance provided by small business investment companies (SBICs) which are licensed by SBA. Thus, SBICs are permitted to help businesses engaged in the media. The policy surrounding SBIC assistance to media concerns is similar to the approach taken by the Congress in funding broadcasting through the nonprofit Corporation for Public Broadcasting. SBICs operate within SBA regulations, but their transactions with small companies are private arrangements which carry no SBA guaranty.

SBA also has been making physical injury disaster loans to media concerns and academic schools since 1953, based on humanitarian grounds. The SBA's disaster loan program attempts to restore to an injured party that which was lost due to circumstances beyond its control. No distinction is made for eligibility purposes between media and non-media concerns for physical disaster loans, but economic injury disaster loans have been subject to the limitations of the media policy rule.

SBA believes that the assistance it presently makes available under the exceptions to the media rule and under the SBIC and disaster programs is not sufficient to assist small businesses in the media industries which are demonstrably in need of increased aid. Accordingly, SBA is changing its policy so as to make assistance available, under the 7(a) business, economic injury disaster and development company loan programs, to media concerns which are otherwise eligible for such assistance.

SBA believes that its present regulatory apparatus and administrative practice for screening applicants for such assistance are sufficient to protect the public interest. In this regard, the present credit criteria under which applications for such assistance are reviewed and the prohibition on funding illegal activities should be sufficient to provide the desired level of protection. (See 13 CFR Parts 120 *et seq.* and 122 *et seq.*, specifically 13 CFR §§ 120.101–2(d) and 120.103–2). SBA's Office of General Counsel plans to address constitutional and other legal issues which may arise as a result of this repeal on a case by case basis. The General Counsel's Office will provide SBA field personnel with guidance and advice with respect to loan applications which are referred to that office because of constitutional or other legal concerns.

Since SBA is repealing the media rule in Part 120 of its regulations, it is also eliminating the cross-reference to the rule which is in Part 123 of its regulations, relating to economic injury disaster loans. Because the repeal of the opinion molder necessitates renumbering subparagraphs in Part 120, SBA is also changing a cross-reference to Part 120 in Part 108 of its regulations, relating to development companies.

Compliance With Executive Orders 12612, 12778 and 12866, the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. and the Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this final rule will have a significant economic impact on a substantial number of small entities. From the limited amounts of data that the SBA had at the proposed rulemaking stage, SBA certified that repeal of the media policy rule would not have a significant economic impact upon a substantial number of small entities. Based upon data received from various sources and comments received by SBA concerning the proposed rulemaking, SBA, upon further consideration, believes that this rule could have a significant economic impact upon a substantial number of small entities.

Repeal of the media policy rule would increase the eligibility for small entities in certain industries. Material from unpublished data prepared under contract by the United States Bureau of the Census for the SBA in May, 1994, show that approximately 75,000 small business concerns in the affected industries would become eligible for participation in the SBA's loan guaranty program. These small business concerns account for approximately 95% of the businesses in those industries.

In compliance with the Regulatory Flexibility Act, the SBA has examined alternatives other than the repeal of the media policy rule. The alternatives included modification of the rule and maintenance of the status quo. The SBA has determined that of those courses of action, repeal of the rule would be most beneficial to those entities.

This final rule was reviewed by OMB under Executive Order 12866. This final rule is intended to make eligible more media small business concerns. It is reasonable to assume that SBA will not be requested to process a disproportionate number of additional media loan applications. For example, in fiscal 1991, 1992 and 1993, respectively, SBA guaranteed 202, 199 and 241 section 7(a) loans to eligible bookstores, advertising agencies, video stores and vocational schools. The aggregate amounts of the SBA guaranteed portions for those three years for such businesses were, respectively, $27.7, $28.7 and $35.2 million.

SBA certifies that the final rule would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

SBA certifies that this final rule would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

Further, for purposes of Executive Order 12778, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

(Catalogue of Federal Domestic Assistance Programs, No. 59.012, Small Business Loans)

List of Subjects

13 CFR Part 120

Loan programs/businesses; Small Businesses

13 CFR Part 123

Disaster Assistance; Loan programs—business

13 CFR Part 108

Loan programs—business; Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA is amending parts 108, 120 and 123, chapter I, title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.101–2 is amended by removing paragraph (b) in its entirety, and redesignating paragraphs (c) through (h) as paragraphs (b) through (g).

PART 123—DISASTER—PHYSICAL DISASTER AND ECONOMIC INJURY LOANS

1. The authority citation for part 123 continues to read as follows:

Authority: Sections 5(b)(6), 7 (b), (c), (f) of the Small Business Act (15 U.S.C. 634 (b)(6), The FACTS About...

LOANS TO SMALL GENERAL CONTRACTORS

THE PROGRAM

The U.S. Small Business Administration (SBA) makes regular business loans to small general contractors to finance construction or renovation of residential or commercial buildings that will be offered for sale. These loans are available only under the guaranty loan program.

ELIGIBILITY

Eligibility rules require construction contractors and homebuilders to have already demonstrated the managerial and technical ability to build or renovate projects comparable in size to those for which they are seeking SBA financing. In addition, they must qualify as small businesses under the SBA's size standards and meet the Agency's credit criteria.

AMOUNT

The SBA can guarantee as much as 85 percent of the loan up to $750,000. The maximum guaranty for loans up to $155,000 is 90 percent.

TERMS

The loan maturity cannot be more than 36 months plus a reasonable estimate of the time it takes to complete the construction or renovation. Principal repayment may be required in a single payment when the project is sold. Interest payments, however, are required at least twice a year and must be paid from the applicant's own resources, not from loan proceeds.

INTEREST RATES

A lender may charge 2.25 percentage points over the New York prime interest rate.

USE OF PROCEEDS

Loan proceeds can be used only for direct expenses of the project. Rehabilitation projects also qualify if they are "significant" and if, at the time of loan application, the estimated costs are equal to or more than a third of the purchase price or the fair market value of residential or commercial buildings at the time they are offered for sale.

Loans also can be used to purchase vacant land if the price is no more than 20 percent of the total loan. Not more than five percent of the loan can be used for streets, curbs and other developmental costs that benefit properties other than the one being built or rehabilitated.

SPECIAL APPLICATION REQUIREMENTS

In addition to the requirements of SBA's regular business loan program, the applicant must submit three letters to SBA (or to the participating lender).

- One letter must be from a mortgage lender doing business in the area affirming that permanent mortgage financing for qualified purchasers of comparable real estate is normally available in the project's area.
- Another letter must come from an independently licensed real estate broker with three years' experience in the project area. The letter must state whether a market for the proposed structure exists and whether it is compatible with other buildings in the neighborhood.
- The third letter must be from an independent architect, appraiser or engineer, confirming availability of construction inspection and certification at intervals during the project. This letter writer cannot be affiliated with the applicant in any way.

The cost of construction inspections must be paid by the applicant and can be paid from the loan proceeds.

COLLATERAL

Loans for the project must be secured by not less than a second lien. The total amount of the first and second liens on a property cannot exceed 80 percent of the contractor's anticipated selling price. The first lien must include provisions for transferring clear title to the purchaser of each parcel. The SBA will not take a second position in a subdivision that is subordinate to a lien requiring the entire loan to be paid in full before any property is released.

SBA

U.S. Small Business Administration

ADDITIONAL INFORMATION

The SBA has a number of programs and services available. They include training and educational programs, advisory services, publications, financial programs and contract assistance. The Agency also offers specialized programs for women business owners, minorities, veterans, international trade and rural development.

The SBA has offices located around the country. For the one nearest you, consult the telephone directory under U.S. Government, or call the Small Business Answer Desk at 1-800-U ASK SBA.

All of SBA's programs and services are extended to the public on a nondiscriminatory basis.

THE WHITE HOUSE
WASHINGTON

June 14, 1995

TO: Jim Dorskind

FROM: Todd Stern TS

Please call me about this.

06/13
Todd,

This letter came in from Sosnik.

Do you
- want him to put a cover note on it?
- want it to go to POTUS as is?
- send to dorskind for reply?

s

AFSCME®
American Federation of State, County and Municipal Employees, AFL-CIO
1625 L Street, N.W., Washington, D.C. 20036-5687
Telephone (202) 429-1000
Telex 89-2376
Facsimile (202) 429-1293
TDD (202) 659-0446

95 JUN 13 A11 : 48

June 12, 1995

From: Doug Sosnik
To go to the President

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

Dear Mr. President:

The AFSCME International Executive Board will begin a three-day meeting tomorrow. At that meeting, I plan to announce a major grassroots and media campaign directed against the Republican budget, with the expressed goal of defeating the reconciliation bill. Our Board will be asked to commit substantial resources and funding for this campaign.

I know you understand the severe impact which the Republican budget plan will have on our members -- as workers and as citizens. We plan to graphically convey to them and their neighbors what they will lose while the nation's wealthy will gain and prosper.

I am very concerned about reports that the Administration is planning to submit its own budget proposal within the next few weeks. This course of action will seriously undermine our collective efforts to cast congressional Republicans as unfeeling and out of touch with this nation's middle class. I respectfully suggest that it could have major adverse political implications for us and for you that if in the middle of our budget campaign, the Administration offered its own budget with cuts that resemble those cuts included in the Republican budget.

Under these circumstances, it would be virtually impossible for us to defend the Administration.

I strongly urge you to reconsider submitting a budget proposal at the present time. I am, of course, available to discuss this with you at your convenience.

With warmest personal regards,

Gerald W. McEntee

Gerald W. McEntee
International President

THE PRESIDENT HAS SEEN
6-13-95

Hillary

My summary of WACO

Pls save + keep handy
if needed —

BC

? FBI Report
What happened: Hartnett, Conroy, Troy
(lied) Sarabyn, Chojnacki - Byrne (never
Higgins. blew?)

III. THE METHODOLOGY OF THE WACO REVIEW

Rodriguez
Press?

THE PRESIDENT HAS SEEN
6.13.95

ATF 4 dead 20 hurt

Cult [illegible] dead 4 ATF hurt

A. Serious Questions Raised

Waco raised serious questions. Clinton directed Treasury to conduct a "vigorous and thorough" investigation of ATF's actions. The President's directive resulted in three separate yet coordinated inquiries -- the Treasury, the Justice and the joint Forward Looking reviews.

B. Bentsen's Mandate

With respect to the ATF's actions, on April 29, Secretary of the Treasury Lloyd Bentsen asked me to focus on ATF's involvement in the case, from the initiation of its investigation of Koresh and his followers through its unsuccessful effort to execute search and arrest warrants on February 28.

C. Non-interference with other investigations

The Treasury investigation was undertaken so as not to interfere with ongoing criminal investigations and prosecutions resulting from the cult members' conduct. We received tremendous cooperation, in fact, from the

Texas Rangers and the McLennan County Sheriff's Office. As you know, a murder trial has started in Texas as a result of the local U.S. Attorney's Office's investigation.

D. The Design of the Treasury Investigative Team

To assure an objective and comprehensive review: (1) Secretary Bentsen decided not to use any ATF agents in the investigation -- and relied on Treasury's other bureaus for agents who could be counted uon to be objective and fair; (2) He selected three prominent individuals to act as Independent Reviewers:

- Edwin O. Guthman, a Pulitzer Prize-winning journalist who served as press secretary to Robert F. Kennedy when Kennedy was Attorney General and when he was a member of the Senate;
- Henry S. Ruth, Jr. an attorney who served in the Department of Justice for more than 15 years and who was later chief Watergate prosecutor;
- Willie L. Williams, Chief of the Los Angeles Police Department.

(3) The Review's day-to-day operations were supervised by the project director, H. Geoffrey Moulton, Jr., a professor from Delaware, and two assistant project directors, Lewis C. Merletti, Deputy Assistant Director of the U.S. Secret Service, and David L. Douglass a private attorney from D.C. This leadership team --

including only one Treasury official -- insured that a non-Treasury perspective would be reflected in both the investigation and the report; (4) The Review relied on outside experts and consultants with expertise in tactical command and control, intelligence gathering, and crisis decisionmaking issues:

- Commander George Morrison, a 37-year veteran with the Los Angeles Police Department;
- Deputy Chief John Murphy and Lieutenant Robert Sobocienski from the New York City Police Department Special Operations Division;
- Captain John Kolman, retired from the Los Angeles County Sheriff's Department who is a founder and director of the National Tactical Officers Association.
- Colonel Rod Paschall, a retired commander of the U.S. Army First Special Forces Group—Delta (Delta Force); and
- Wade Ishimoto, a retired Delta Force intelligence officer.

The Review also received assistance from two weapons experts, William C. Davis, Jr., and Charles R. Fagg, and two explosives experts, Captain Joseph Kennedy, a retired Navy officer, and Paul Cooper. (5) The Treasury's Office of Inspector General monitored the Review to ensure that the investigative plan was thorough and implemented properly. The Inspector General concluded that the Review "vigorously and thoroughly examined all significant information surrounding the events leading to ATF's execution of the search warrant at the Branch Davidian Compound" and that "the report provides an accurate account of these events."

E. The Investigative Plan

1. The Review directed ATF to gather and provide all information available concerning raid planning and execution.

2. The Review did 508 person-to-person interviews. The Review started by interviewing line agents to build a base to interview the leaders. Subsequent interviews followed the chain of command, from ASACs and SACs through the ATF director and Treasury officials.

IV. THE FINDINGS OF THE REVIEW

I will now outline the principal findings of the Review.

THE PROPRIETY OF INVESTIGATING KORESH

a. **First, the Review determined that Koresh and his followers were properly the subject of criminal investigation.**

*Referred by local law enforcement

*Violent history -- Roden shootout

*Initial knowledge by Aguilera of UPS deliveries -- including black powder and conversion kits.

*Fortress-like structure -- and the buried school bus and the firing range

b. **The investigation was professional and thorough.** It established not simply that Koresh and his followers had violated the gun laws but that they had assembled an arsenal of automatic weapons and improvised explosives devices. Based solely on shipping invoices, let me describe just <u>some</u> of the cult's arsenal that ATF knew about before the raid:

i. Approximately 136 assault rifles, 29 pistols, 4 shotguns, 786 magazines for firearms and 211,000 rounds of small-arms ammunition;

ii. Sufficient upper and lower receivers to assemble an addition 110 AR-15/M16 rifles.

iii. Grenade launcher attachments for the AR15/M16 rifles.

iv. sufficient chemicals and components to construct at least 50 grenades and perhaps as many as 250 (note; they only had 50 grenade casings, but chemicals for 250). They also had chemicals and components to create 70 pipe bombs.

v. In addition, they had in the Compound, the equipment necessary to convert the semi-automatic rifles to full automatic -- including a milling machine an AutoCad computer and people who knew how to use that equipment to make homemade machineguns such as "grease guns."

Review sheet showing what was found in the Compound after the fire.

c. There are those who contend that Koresh and his followers were no more than peaceful, gun collectors with unusual religious beliefs but who posed no threat to society. They could not be more wrong.

i. In fact, the Review has recently learned that on at least one occasion Koresh instructed his followers to prepare to use their weapons to separate the believers from the non-believers. He told his followers, as the prosecutors have recently told the jurors in the murder trial: "You can't die for God if you can't kill for God."

ii. ATF learned from welfare and child care workers of Koresh's propensity toward violence -- Sparks and the LA Riots ("When my time comes, the riots will pale in comparison...")

iii. ATF also had evidence of Koresh's willingness to disregard the law -- sex with minors (but no children willing to testify).

TACTICAL PLANNING AND WHAT WENT WRONG

A. The Options

Those in charge of this investigation recognized that service of the search and arrest warrants posed great risks. After considering options, including a siege, they decided to effect service through a dynamic entry. **The Key Question is: "Did ATF's Tactical Planners Exhaust All Other Possible Enforcement Measures Before Executing a Dynamic Entry" -- or Raid?**

The answer is No.

*Premature choice to do a raid

*Should have expended more energy on **luring Koresh off the Compound.**

*Faulty intelligence = problem -- ATF tactical planners erroneously thought Koresh never left the Compound -- but Review found he left -- including twice while Undercover House was operating.

*Ultimately -- drawbacks perceived by ATF's planners of a **siege** were serious and validated --

lots of MRE's, water, and perceived mass suicide risk meant a siege was not a great option

*But planners thought raid option better than it was --again due to faulty intelligence.

B. The Plan

The **plan** was based on two key premises:

1. The weapons were stored in an arms room at the East end of the Compound; and

2. At 10:00 a.m., all, or virtually all of the male cult members, could be found working in a large pit at the west end of the Compound.

The tactical planners concluded that they could separate the men from the guns.

To disguise their approach, they obtained two cattle trailers to approach the Compound -- a tactic that had been used successfully in a prior raid.

The planners identified three main entry routes -- show on photograph:

1) To the gun room

2) To the pit, and

3) To the main Compound--where they expected the women and children to be located.

C. The Plan had a Reasonable Likelihood of Success -- but Lacked Contingencies

Reasonable Likelihood of Success

Four of the six tactical experts relied upon by the Review to evaluate the plan, concluded that had the assumptions on which it was premised been accurate, and had the plan been properly implemented on the February 28, it had a reasonable likelihood of success.

No Contingency Planning -- Command and Control Flaw

However, the experts also agreed that the plan lacked depth--it failed to prescribe options for reasonably foreseeable contingencies. Once the cattle trailers reached the Compound the only plan was to carry out the mission. Tremendous vulnerability of agents to firepower from Compound was never appreciated by the raid planners. As a result, they never provided a means to extract their men -- i.e tanks on flatbed trucks or a reserve force.

Also, as designed, there were serious weaknesses in the Command and Control structure--those in charge were not in the appropriate position to exercise their authority in the most effective manner.

(Chojnacki in the helicopter and Sarabyn in the cattle trailers -- and neither in the Undercover House....)

D. What Went Wrong?

The Assumptions of the Plan were faulty

***Arms room** -- not correct -- they exaggerated Block's information, which indicated that even if there was such a room, that there was no "lock" or "key" and that the weapons were often distributed.

***"Men in the pit** -- the intelligence was much softer than they thought -- ATF did not know total number of men living at Compound (underestimated total number of persons by about 50 persons) and had no way to verify how many men were in the pit.

****Sentries** -- Hidden

Koresh was Tipped

It was clear that Koresh knew of the raid and had used that knowledge to prepare a vicious ambush. How did Koresh learn of the raid and, perhaps even more important, did those in charge of the raid know that their plan had been compromised?

Koresh Ambushed ATF

The direct cause of the bloodshed on February 28 was that Koresh, after being tipped that a raid was about to occur, decided to lay an ambush for ATF and brutally murder its agents.

How Was Koresh tipped?

The answer is now clear. By the morning of February 28, the **local media in Waco** -- the **Waco Tribune-Herald** and TV station **KWTX** -- had learned about the time and place of the raid. The newspaper through a confidential source outside of ATF; the TV station through a dispatcher for AMT ambulance service.

One of the TV station's cameramen -- James **Peeler** -- was lost as he was driving near the Compound. He asked David Jones for directions. Though Peeler didn't know it, Jones was a cult member. In the course of their conversation, Peeler let Jones know that a raid was about to take place at the Compound. Jones then headed back to the Compound and told Koresh.

Other media conduct on the morning of the raid -- including substantial media traffic near the Compound -- could have easily tipped the Compound.

E. What Did Rodriguez Tell the Raid Commanders?

As I'm sure you all know, after Koresh received the tip from David Jones, he came back into the room where Robert Rodriguez was waiting, was very upset, talked about ATF and the National Guard, and said "They're coming, Robert, the time has come. They're coming."

One thing I want to make clear, Agent Rodriguez fully reported what he saw and heard from Koresh both to the raid commander in the Undercover House and the tactical commander, Chuck Sarabyn. He did his job -- and he acted courageously under tremendous pressure.

F. WHY DID ATF DECISION-MAKERS DECIDE TO GO FORWARD WITH THE RAID AFTER HEARING RODRIGUEZ'S REPORT?

ATF's raid commanders had enough information from Rodriguez to know that the raid had been compromised. Their actions after hearing from Rodriguez, rushing around and speeding up the operation, show they knew that the raid had been compromised. Their decision to rush forward was in part due to a failure to properly estimate Koresh's dangerousness and his ability to act violently and aggressively.

Unfortunately, hurrying up was not the right response. Had the raid commanders carefully assessed Rodriguez's information, and examined available intelligence information (such as the fact that agents saw Peeler talking to Jones and then saw Jones head into the Compound), I believe that they would have called off the raid.

The decision to go forward was not simply a matter of bad judgment by the raid-day decision-makers. It was also the product of serious deficiencies in the intelligence gathering and processing structure and operation -- no one knew what to look for on raid day. ATF management also failed to check the momentum of the operation.

THE ASSAULT

Koresh had at least 40 minutes between the time he was alerted to the raid and the arrival of the entry teams. He distributed weapons and ammunition and set up an ambush. He was ready.

Observers in the Undercover House could not see any activity in the Compound, but no one recognized this absence of routine activity--especially the absence of men in the pit--as a warning sign.

The agents were fired upon as soon as they began exiting the trailers. The team assigned to enter the Compound through the main entrance and the team assigned to the pit were unable to reach their objective. The New Orleans team, assigned to enter Koresh's bedroom and the arms room through second floor windows were able to get to the roof. However, while they were on the roof they were fired upon.

Conway LeBleu and **Todd McKeehan** were killed while on the roof. **Robert Williams** and **Steven Willis** were killed on the ground. Each of these agents died honorably in the service of their country. There was nothing any of them or any other agent could have done that would have saved their lives.

Discuss bravery and courage of:

> ***King** (Took six shots and rolled off roof)
>
> ***Gabourie** -- medic who aided several wounded agents under fire
>
> ***Buford** -- shot twice inside the arms room
>
> ***Chisolm** -- threw body over wounded Buford
>
> ***Griffin** -- subjected to racial remarks while trying to help carry out King

Despite the pain of losing four young agents, there was much to be proud of that day. The entry teams' performance in the face of a violent and deadly ambush was flawless, a testimony to their training, professionalism, and commitment to each other.

POST-RAID CONDUCT BY CERTAIN ATF SUPERVISORS

Blaming Rodriguez

*Chojnacki and Sarabyn lied to the shooting review team and Hartnett and Conroy about their knowledge that Koresh knew they were coming.

*In turn, Hartnett and Conroy consciously avoided the "true" story -- as told to them by Rodriguez and corroborated by Mastin

*Then, Hartnett and Troy knowingly misled the media and the public -- and only told one side of the story -- Chojnacki's and Sarabyn's -- despite their version's lack of credibility.

*The effect was to wrongfully point the finger for the raid's failure at a line agent who did his job courageously and well -- Rodriguez

Altering the Raid Plan

*Chojnacki, Sarabyn, and a third agent, to make themselves look more professional, altered the raid plan.

*The alterations were an effort to make clear that their planning process was thorough -- and not an effort to substantively change the "plan"

*Chojnacki and Sarabyn lied about their actions -- and thereby tried to pin the blame on the third agent -- The third agent, when confronted with the alterations, admitted his actions and said he had made a poor judgment in altering the plan without indicating that it was no longer the original plan.

REMEDIES

*Personnel Actions -- new leadership

*Memorandum with respect to identifying and reporting sensitive matters

*Distribution of Report to all ATF personnel by Magaw -- mandatory reading

*Use of report at FLETC and other training centers

*Efforts to improve:

Intelligence operations
Selection of raid planners and commanders
Tactical planning

*Efforts to avoid large scale armed raid-style warrant service -- especially against "groups with guns"