THE WHITE HOUSE
WASHINGTON

9/29

Nancy - HRC wanted POTUS to see this. Marshall is former secretary of Labor, now at U Texas.

Pam

To Ron Klain

FYI -

BC

THE PRESIDENT HAS SEEN
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THE COMMUNICATIONS ACT OF 1995: A CRITIQUE

Ray Marshall

Introduction

H.R. 1555, the telecommunications bill passed by the House August 4, 1995, would, if adopted, do serious damage to the U.S. telecommunications system, and therefore to American economic, social, and political processes. A more balanced bill passed the House Commerce Committee by a bipartisan majority of 38 to 5. Unfortunately, Speaker Newt Gingrich and the House leadership rewrote this bill to suit the Regional Bell Operating Companies (RBOCs), cable companies, and other interests more concerned about avoiding competition than promoting it.

In April, the Senate passed a bill, S. 652, that was acceptable to many industry representatives, mainly because they thought whatever defects it had could be fixed in the House, thus improving the prospects for better legislation from the Senate-House conference. S. 652 did not require significant competition in local markets before the RBOCs were allowed into competitive markets, but, unlike H.R. 1555, it did not preempt the efforts in about half the states that have already opened local toll markets to competition. The Senate bill also empowered the FCC, after consulting with the Department of Justice, to determine whether or not it was in the public interest to allow the RBOCs into competitive markets. This important provision would permit business and consumer groups to challenge RBOC petitions that were contrary to the public interest.

The original Commerce Committee bill was based on the widely accepted principle that the RBOCs should face real competition in their local markets before being allowed into long distance and other competitive markets. Otherwise, these companies would have both the motive and ability to discriminate against rivals in the use of their facilities and to jack up local prices where they have no competition in order to lower them where they face stronger competitive threats. Regulators' inability to prevent such abuses led to the consent decree that both broke up the Bell System and ordered the Bell companies out of long distance and other competitive markets. After divestiture, the RBOCs continued as regulated monopolies, while long distance became a highly competitive industry.

The Development of Competition in Long Distance Markets

Before the breakup of the Bell system in 1984, competition in the telecommunications industry was largely a theoretical prospect. Basic economics predicted that competition would stimulate innovation and drive prices to the costs of the most efficient suppliers. The keys to effective competition are freedom of entry and freedom of choice by consumers. It was understood, of course, that the dominant long distance firm, AT&T, should be regulated until competition developed. At first, AT&T controlled the only facilities that could be used by competitors to offer long distance services. If it could either deny competitors the use of those facilities—which were, in essence, public infrastructure—or discriminate against them in the terms for their use, AT&T could have prevented MCI, Sprint, LDDS (now WorldCom) and hundreds of other companies from ever becoming successful competitors. The consent decree therefore required AT&T to permit the use of its facilities by competitors (or resellers) at cost-based wholesale prices and other terms and conditions regulated by the Federal Communications Commission (FCC) and state public utility commissions, with active oversight by the Department of Justice (DOJ) and the federal consent decree court. These requirements make it clear that H.R. 1555's terms would have prevented long distance from ever becoming as competitive as it is.

The long distance experience thus confirms economic theory and provides a model for developing competition throughout the telecommunications industry. Because of freedom of entry and free consumer choice, there are now over 500 long distance companies, including four national digitalized fiber optic networks; there has, in addition, been an explosion of new technology, and inflation-adjusted prices have fallen by over 60 percent.

What the House Leadership Did

The most important changes Gingrich and other House leaders made in the Commerce Committee's original bill were to eliminate the requirements that a Bell company face meaningful facilities-based competition before offering long distance service; weaken the resale requirement; and reduce the length of time a Bell company had to provide long distance service through a separate subsidiary from three years to eighteen months. The net effect of these changes was to empower the Bell companies to avoid any meaningful competition before being allowed to enter competitive markets.

H.R. 1555 also would deregulate cable rates before local competition developed, allow telephone companies to offer cable service, and make it harder for customers to address formal complaints about cable rates. The bill allows cable and telephone companies to buy large shares of each others' systems and to merge in communities of less than 50,000—which includes almost 40 percent of the nation's homes. The current rule prohibiting common ownership of T.V. or radio stations and newspapers in the same market would be repealed, but the ban on common ownership of cable and T.V. systems in the same market would be retained.

Presidential Veto Statement

Fortunately, the Clinton administration has taken a pro-competition position from the beginning and consequently has been very critical of legislation in both the Senate and the House that would allow excessive ownership and control of media markets and deregulate the RBOCs and cable companies before they faced real competition. President Clinton therefore threatened to veto H.R. 1555 unless a significant number of its provisions were deleted or revised. The President complained that "Instead of promoting investment and competition," H.R. 1555 "promotes mergers and concentration of power. Instead of promoting open access and diversity of content and viewpoints, it would allow fewer people to control greater numbers of television, radio and newspaper outlets in every community."

After the President's veto threat, the House adopted amendments to (a) limit the proportion of the nation a single T.V. station owner could reach to 35 percent, the same as the Senate bill, instead of the 50 percent proposed by H.R. 1555 and (b) require either a chip in new T.V. sets to allow parents to block objectionable programming or for broadcasters to develop an alternative blocking technology. However, these amendments were not nearly enough to correct H.R. 1555's problems, or to overcome President Clinton's objections to this legislation.

The Merrill Lynch Analysis

As a result of what it regards as a high probability (80-90 percent) that H.R. 1555 will become law, Merrill Lynch has upgraded its rating of the RBOCs' stock and downgraded AT&T's (*Telecom Services*, 18 July 1995 [updated Aug. 1995]). Like most telecommunications experts, until H.R. 1555 appeared likely to pass, Merrill Lynch analysts assumed that the most probable course for telecommunications reform would be to follow the AT&T consent decree's successful example and promote competition by requiring the RBOCs to face real competition before being allowed into long distance. H.R. 1555 dramatically departed from this expectation.

According to Merrill Lynch, under this legislation "very little competitive inroads will be required as a precondition for RBOC entry into long distance... ." (p. 4). The key to freeing the RBOCs from meaningful local competition was the deletion of the original House Commerce Committee bill's requirement that a Bell company's "entry into long distance be delayed until an RBOC faces an actual competitor offering service 'comparable in price, features and scope' to that offered by the RBOC" (p. 5). The RBOCs also will benefit from the provision mandating price caps instead of rate-of-return regulations. "Price caps allow the gains from long distance and any productivity gains to flow 100 percent to the bottom line" (p. 5). Under state "incentive" regulations, which substitute price caps for rate-of-return regulations, at least part of productivity improvements are shared with ratepayers. Under H.R. 1555, the states would be prohibited from rate-of-return regulation and required to adopt a price cap system

Merrill Lynch notes that H.R. 1555 would strengthen the RBOCs' already substantial competitive advantages over long distance companies, which include:

1. Entry into long distance as a reseller and use of pre-existing facilities requires very little capital and is "less time intensive and less risky than almost any other new market opportunity faced by the RBOCs" (p. 6). Easy entry into long distance therefore would create disincentives for the RBOCs to compete with cable monopolies.

2. The RBOCs have the advantage of "an existing customer base that accounts for over 95 percent—perhaps as high as 99 percent—of the long distance market" (p. 6).

3. With their control of local facilities, RBOCs would be able to get highly discounted long distance resale rates by playing at least four advanced national long distance companies off against each other. "After all, with long distance share of as little as 5 percent each RBOC will be by far the largest customer of the long distance industry in any given metropolitan area" (p. 7).

RBOC charges for routing calls to local long distance customers are several times costs, constitute about 45 percent of long distance companies' revenues, and therefore would give the RBOCs an enormous competitive advantage in long distance markets.[1] The original justification for these overcharges was to subsidize universal service and provide below-cost rates to residential and rural customers. However, this cross-subsidization is incompatible with

[1] The impact of these access charges has been to provide the RBOCs with large cash reserves, which have enabled them to invest in worldwide ventures. The absence of competition has allowed most of the RBOCs to neglect the modernization of their local networks.

competition (where prices must reflect costs), requiring the development of a competitively neutral universal service system to collect funds from all telecommunications companies to be used to subsidize customers where appropriate. It is not clear, however, the extent to which the RBOCs actually subsidize local rates, which have risen 13 percent in the last ten years despite costs which should be declining because of productivity gains of 4 to 5 percent per year. There are, however, no accurate studies of RBOC costs, though several states are currently undertaking such studies.

5. Because they can control the process of satisfying the checklist[2] of things that must be done for potential competitors before they enter long distance markets, H.R. 1555 would give the RBOCs the advantage of being able to game (i.e., manipulate to their advantage) the system by "delaying each checklist item until all items are ready and also will be able to target...implementation to geographic areas offering highest long distance potential" (p. 7).

H.R. 1555's Outcomes

As a result of these advantages, the Merrill Lynch analysts forecast that over the next six months the RBOCs' earnings-per-share would increase from 6 to 7 percent to 9 to 10 percent, and dividends would rise to 5 percent from 0 to 3 percent (p. 2).

These enhanced RBOC earnings probably would be accompanied by "minuscule" incremental capital investments. "With...less fear of their markets shrinking, RBOC managements may be more willing to slow-roll broadband video investments. We believe investors will react quite positively as capital expenditures could decrease (we roughly estimate 25 percent or $750 million annually), thereby...freeing cash for dividends and/or stock buybacks" (pp. 7-8).

In addition, Merrill Lynch forecasts RBOC mergers, driven by two factors. First, the new regulatory regime "allows (and thus incents) merger synergies to flow to the bottom line untouched. Second, mergers will increase the RBOC's bargaining power relative to long distance companies" (p. 7). Essentially, mergers would transform an increasingly large share of the American telecommunications market from long distance to regional markets controlled mainly by the merged RBOCs. If H.R. 1555 becomes law, the only check on this process and

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[2] The checklist includes such things as fair access to interconnections for RBOC rivals, equal access to telephone directory listings, telephone number portability when customers switch carriers, and a system of reciprocal payments among competing companies.

greater concentrations in media markets would be uncertain, expensive and time-consuming antitrust suits, the effectiveness of which would become even more uncertain if Congress sanctions such mergers with this legislation.[3]

These RBOC gains will be at the expense of AT&T and other long distance companies, whose "main revenue stream will fall victim to the RBOCs taking share and negotiating for increasing levels of volume discounts on resold long distance transmission capacity" (p. 9). Merrill Lynch downgraded its rating of AT&T's stock because of expected market "share losses and commoditization of long distance prices" (p. 10) The stock market confirmed this forecast; within three weeks of the announcement of the House leadership's rewrite of H.R. 1555, AT&T's stock dropped almost 5 percent, while Bell stocks rose by more than 7 percent.

Is the Merrill Lynch Analysis Correct?

While Merrill Lynch's forecasts are instructive, they are based on some questionable assumptions. As with any econometric forecast, the Merrill Lynch analysis does not factor in the probable reactions to potentially catastrophic conditions for AT&T, MCI, Sprint, and other long distance companies, who are not likely to stand idly by while the RBOCs destroy their market positions. AT&T and other companies would have little choice but to spend vast amounts of money and time to counteract the advantages H.R. 1555 would give the RBOCs. Merrill Lynch correctly assesses the damage this legislation permits the RBOCs to inflict on long distance companies, although it is questionable that the RBOCs would be able to achieve the outcomes forecast by Merrill Lynch.

The more questionable assumption, however, is that H.R. 1555 has an 80 to 90 percent probability of passage. President Clinton's veto threat dramatically reduces the odds of passage. The publicity surrounding the veto threat, especially the widespread support for the President's

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[3] Unfortunately, H.R. 1555 relegates the Department of Justice to a "consultative" role and forces the Department to be guided by a very weak antitrust standard. Under the current standard the DOJ could bar RBOC entry if "there is a substantial possibility of impeding competition" in the long distance market. In fact, under the divestiture consent decree a Bell company could have re-entered long distance anytime it met this standard. Under the H.R. 1555 standard, the DOJ could make recommendations but would have no power to make decisions and must conclude that there would be a "dangerous probability that the [RBOC would] successfully use market power to substantially weaken competition" in long distance, a much harder standard to meet. Moreover, unlike the Senate bill, H.R. 1555 does not contain the "public interest" standard used by the Federal Communications Commission (FCC); under this standard the FCC must decide whether the public interest is served before the Bells can re-enter long distance. Critics argue that the current DOJ and FCC standards are too "regulatory," but, unlike H.R. 1555, these provisions are designed to ensure competitive markets, not to regulate or protect particular companies.

position, could enhance Congressional and public understanding of the content and implications of this legislation, thus making it more likely that the House-Senate conferees will send the President a bill he can sign.

Merrill Lynch and other commentators assume, in addition, that the wide margins by which these bills passed make them veto-proof. This is, however, a questionable assumption. More indicative of the ability to sustain a veto are the votes for key provisions advocated by the President. For example, 146 votes are required to sustain a veto, but 149 members voted against the House leadership's amendments. And a key administration requirement, preservation of the Department of Justice's role in determining whether or not an RBOC's entry had a substantial possibility of impeding competition, failed by 151 to 271. A similar provision in the Senate received 47 votes, well over the 34 needed to sustain a veto. Moreover, many of the Democrats who voted for this legislation probably would support the President's veto. H.R. 1555 therefore probably has less chance of becoming law than Merill Lynch assumes. But much depends on our ability to educate the public and the Congress to the damage that would be done to the country if this special interest legislation became law.

Myths About H.R. 1555

A major step in this education process must be to shoot down some of the myths that give this legislation a superficial appeal, especially for those in the Congress and elsewhere who are unfamiliar with either the technical intricacies of telecommunications markets or the bill's provisions. Some of these myths include:

(1) Supporters have taken advantage of widespread public support for deregulation to argue that this legislation would deregulate the telecommunications industry. Actually, it would deregulate monopolies and regulate competitive markets; it would substitute control by monopolists for control by regulatory authorities, reward monopolists who have accumulated valuable assets and earned fat profits behind the protective barrier of government franchises, and penalize long distance companies that have successfully met the demands of competitive markets.

(2) Its supporters also argue that H.R. 1555 would encourage competition. Actually, as noted by Merrill Lynch, H.R. 1555 would restrict competition, encourage mergers and strengthen monopolies. H.R. 1555 would, in addition, reverse the progress toward competition already underway in about half the states. Indeed, H.R. 1555 apparently has caused some RBOCs to

slow down their plans to open their local markets to competition. Ameritech, for example, had agreed to open its markets to competition in the Midwest as a precondition for entry into long distance, but started dragging its feet when it became clear that H.R. 1555 would allow it to enter long distance markets on much more favorable terms (see *Wall Street Journal*, July 24, 1995, p. B-4).

This legislation would, in addition, provide incentives for the RBOCs to continue to resist competition. This is important because the Bell companies have great power to retard or accelerate competition in local telecommunications markets. As noted, the RBOCs have huge competitive advantages over long distance companies, which is why they are so eager to enter these markets instead of going head-to-head with cable monopolies, where the RBOCs would derive almost no advantage from their control of local bottleneck facilities. Furthermore, since there is little or no competition in either market, cable-telco rivalry would make these markets more competitive; by contrast, RBOC entry would make long distance markets less competitive. Moreover, by allowing RBOCs to enter long distance markets throughout a state as soon as a rival (that could be selected by the RBOC) offers service to a few buildings in a single city, H.R. 1555 incents the RBOCs to resist meaningful competition. By contrast, making real local competition a precondition for their entry into long distance would incent the RBOCs to accelerate the opening of their markets.

Allowing Bell companies into long distance thus creates a motive for them to abuse their monopoly power. Before getting into long distance, the RBOCs have a motive to profit by overcharging long distance companies to use local networks; by contrast, once the RBOCs get into long distance, they have a motive to discriminate against rival long distance companies in favor of their own long distance affiliates. Can anyone really believe that an RBOC would treat its own long distance affiliate no better than it would a rival long distance company? The reason for divestiture in the first place was the conclusion by experts that, because of the numerous ways the Bell companies could manipulate the system, divestiture was the only way to prevent these abuses. As Rep. J.C. Watts (R-OK), a former state utility commissioner, told his House colleagues, the provisions of H.R. 1555 "are so vague it will be difficult for state regulators to regulate competition" ("Dear Colleague" letter, Aug. 3, 1995).

In 1984, competition—the most effective way to prevent abuses—was not considered feasible in local telephone markets. The long distance experience and a proliferation of new technologies now suggest that local competition is possible. But since nobody knows for sure,

we must proceed with caution. Satisfying precondition checklists required by both the House and Senate bills would indicate that competition was possible, not that it actually exists. The determination of whether a telecommunications market is actually competitive requires the joint expertise of the FCC's telecommunications experts and the DOJ, which has greater expertise in prosecuting antitrust violations and ensuring that markets are competitive. Unfortunately, H.R. 1555 fails to provide an effective means for federal authorities (either the Justice Department or the FCC) to ensure that markets have actually become competitive. Clearly, federal referees are required to prevent RBOC abuses and to give them incentives to accelerate local competition instead of preventing it.

(3) H.R. 1555's supporters argue that the RBOCs will improve competition in long distance markets and lower prices. This argument is based on another myth: that (a) local markets are competitive and (b) long distance markets are not.[4] While technology has created the potential for local competition, virtually nobody in America has more than one choice for regular local telephone service and there are no cost-effective alternatives to the RBOCs' local infrastructure facilities; by contrast, virtually everybody in America has at least four choices of national technologically advanced long distance companies. The only advantage a Bell company would have in competitive markets is its monopoly power—which is hardly either fair competition or good public policy.

(4) One of the biggest myths is that H.R. 1555 is fair in the sense that it creates parity between long distance companies and the RBOCs. It is, in fact, grossly unfair. For example, until the RBOCs are authorized to provide interLATA long distance service, H.R. 1555 would prohibit the FCC and the states from requiring these companies to provide dialing parity between the Bell companies and their competitors for short haul (intraLATA) toll calls. This means that customers who select a non-RBOC must dial many more numbers to place their calls, thus restricting competition and freedom of consumer choice. Similarly, in most cases, H.R. 1555 would prohibit a competitor from jointly marketing long distance and local services until the Bell

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[4] The RBOCs and their supporters often argue that long distance is dominated by three "oligopolies" because long distance prices have increased in "lock step." This, however, does not prove oligopoly: in perfectly competitive markets prices move in "lock step." The law of one price is that there can only be one price in a competitive market in equilibrium. Moreover, the RBOCs cite long distance rates registered with regulatory authorities, not prices actually paid by users; actual prices charged by the three largest long distance companies have not increased, but fell by 70 percent in real terms between 1984 and 1994 (Robert Hall, *Long Distance: Public Benefits from Increased Competition* [Menlo Park, Ca: Applied Economics Partners, 1993; updated 1994]). Freedom of entry and freedom of consumer choice have made long distance a highly competitive industry.

company is authorized to provide interLATA long distance service in the state. These restrictions not only limit consumer choice and market entry, but also cause local toll prices to be far too high relative to costs, which is one reason it usually costs more to make a long distance call to the next county than across the country. As noted, H.R. 1555 would preempt the actions of almost half of the states which have started opening their local markets to competition.

These restrictions are based on the strange notion that it is fair to treat monopolists and competitive firms the same, an assumption that is contrary to basic economics and common sense. As Merrill Lynch concluded, competitive long distance firms are extremely vulnerable to monopolists who control the facilities required to reach almost all customers.

The "fairness" argument also implies that companies that have earned huge profits through their control of markets and assets acquired as government-protected monopolists should be compensated for, or protected from, any loss of market share as a result of competition. It is, however, natural to expect the Bell companies to lose market share if local markets really do become competitive before the RBOCs enter long distance. Moreover, allowing competitors to gain some market share to reduce their monopoly power is a small price to pay for freeing the RBOCs from rate-of-return regulation and giving them almost complete control of local infrastructure facilities. It would, moreover, be patently unfair to allow the RBOCs to enter competitive markets before competition in their own markets provided long distance companies and local customers at least one significant facilities-based alternative to the RBOCs.

In another common fairness argument, the RBOCs and their supporters contend that the Bell companies should be allowed to enter long distance and other markets before their own markets become competitive in order to avoid unfair "cherry picking" of the RBOCs' best customers. According to this argument, competitors will only seek out the most lucrative local markets, where above-cost rates are charged in order to subsidize rural and residential customers. By contrast, the RBOCs argue, the new entrants will leave unprofitable subsidized business to the Bell companies. This, however, is an argument to preserve the status quo, not to advance competition. First, H.R. 1555 properly provides for the development of a universal service system, which should be competitively neutral—it should collect revenues from all providers to be administered by an independent agency to subsidize customers and institutions who cannot pay full costs. Second, as noted earlier, it is unclear how much the RBOCs really are subsidizing residential customers. Nevertheless, where justified, subsidies should be administered by a competitively neutral agency, not as internal transfers of uncertain magnitude and destination

controlled by monopolies. Of course, by reducing costs and prices, competition would minimize the need for subsidies. Third, under competitive conditions, nothing prevents the RBOCs from competing in their local markets to save their best customers and nothing except rendering quality service at competitive prices justifies the retention of market share by the RBOCs. It is, moreover, hard to see how not being able to enter competitive long distance markets prevents the RBOCs from competing in local markets where they already have enormous advantages. They don't like it, but competition will be good for the RBOCs, even if they do lose local market share. AT&T, for example, has lost about 40 percent of its market share since 1984, but has maintained its revenue by actively innovating, entering new markets, and improving both productivity and its ability to compete in highly demanding global markets.

(5) Another major myth is that H.R. 1555 would be a great job-creating bill. For example, Rep. Thomas Bliley (R-VA), chairman of the House Commerce Committee, declared in response to President Clinton's veto statement, that the President was threatening to veto "the single biggest job creation bill of his presidency" (*USA Today*, August 1, 1995, p. 1). This argument is based on the unrealistic assumption, noted earlier, that long distance markets are not already competitive. If, however, we assume, in keeping with the overwhelming weight of evidence and expert opinion, that long distance markets are already competitive, allowing the RBOCs into these markets would reduce employment, not create it. This conclusion was confirmed by a Competitive Long Distance Coalition (CLDC) study, using the econometric models of the WEFA Group, which showed that prematurely deregulating the RBOCs (i.e., before their markets become competitive) would reduce productivity by making it possible for less efficient monopolies to displace more efficient competitive firms, thereby increasing prices for consumers (which could be camouflaged by offsetting lower prices in competitive markets with higher prices where the RBOCs face no competition), thus lowering output by $24.4 billion and employment by 322,000 after ten years. By contrast, if the RBOCs face competition before they are allowed to enter long distance markets, advanced technology will be developed and used, productivity will improve, prices will fall, and gross domestic product would increase by $37 billion and employment would rise by 478,000 (CLDC, "The Economic Ramifications of Opening America's Local Telephone Markets to Greater Competition," 1994).

Finally, jobs would be lost because of RBOC mergers. As noted by Merrill Lynch, H.R. 1555 would incent RBOC and media mergers, which ordinarily leads to downsizing and layoffs.

(6) The argument that competition can be both spontaneous and self-perpetuating is another myth advanced by those who do not consider governmental oversight to be necessary for the transition from regulated monopolies to competitive markets. One part of this argument assumes that technology provides alternatives to the RBOC's facilities. As noted, however, while technology promises to make local markets more competitive, there are today no cost-effective alternatives to the RBOC's local networks.

Those who argue for spontaneous and self-enforcing competition believe the high profits earned by local monopolists will attract numerous alternative providers. It is true that the RBOCs' highly profitable access charges have attracted some competitive access providers (CAPs) like Time-Warner to bypass the local monopolies and provide long distance service directly to highly concentrated business customers, but CAPs serve only about 4,000 buildings in the United States. Moreover, these customers are still dependent on the local monopolists for local calls. Similarly, if a cable company and a BOC have the option of vigorous competition or merger, they are most likely to merge. Experience suggests that self regulation, even by several companies, without governmental oversight will lead to cartels, not competition.

Political Implications

H.R. 1555 has important implications for democratic and government processes, as well as the health of the telecommunications industry and the economy. As President Clinton noted in his veto statement, H.R. 1555 would promote mergers, concentration of power, and permit a few corporations to control major public information sources. Similarly, the *New York Times* observed that H.R. 1555 "...risks putting local phone companies in a position to drive rivals out of business. It could also end up concentrating control of the main media...in too few hands." According to the *Times:*

> The bill threatens to crimp diversity by permitting one owner to take control of a community's major newspaper, television, and cable companies... .Republicans propose to leave mergers among telecommunications firms solely to the antitrust laws.
>
> That is wrong. Antitrust laws were designed...to encourage competition and protect consumers from paying unwarranted prices...The laws are not designed to protect diversity of opinion" ("A Threat to Media Diversity" [editorial] *New York Times*, July 31, 1995, p. A-12).

One of the most ominous political problems created by H.R. 1555 would be to reward and probably perpetuate a clear and flagrant exercise of special interest politics. Indeed, the way H.R. 1555 was passed provides a good example of why campaign finance reform is needed. It is hard to avoid the conclusion that Newt Gingrich and the House leadership perverted the legislative process in order to satisfy the RBOCs and other powerful media contributors to their political fortunes. On May 24, 1995, after seven months of hearings and negotiations, the original pro-competition version of H.R. 1555 passed the Commerce Committee 38 to 5. Then the RBOCs prevailed on Gingrich and the House leadership to amend the bill to heavily favor them, mainly by eliminating the "actual competition" test required before the Bell companies could enter long distance. Most of the RBOCs' amendments were debated and rejected by the Commerce Committee before its original bill was passed. On June 28, the chairman of the RBOCs' lobbying organization sent Bliley the House leadership's amendments and informed him: "If this package is accepted, *the House leadership would support it*" (*Washington Telecom Weekly*, July 7, 1995, p. 9, emphasis added). Two weeks later, on July 13, the Commerce Committee chair, Thomas Bliley, reported to industry representatives that the bill had to be changed "because he was under instructions by the House leadership and was facing a mini-revolt within his committee" (Kirk Victor, "How Bliley's Bell was Rung," *National Journal*, July 22, 1995, p. 1892).

Gingrich and other House leaders clearly wanted to demonstrate to the RBOCs and major media companies their power to reverse large committee majorities in order to favor an industry with "deep pockets." This is hardly a way to restore confidence in Congress or the political process. Fortunately, President Clinton's veto threat reduces the chances that this bad legislation will become law.

Recommendations

What should be done by the House-Senate conference to promote competition and media diversity? Some suggestions include:

First, develop a competitively neutral universal service system. By connecting more people to it, universal service enhances the value of the information infrastructure for everybody. However, a system of cross subsidies is incompatible with competition. A competitively neutral system would both enhance competition and take away part of the fairness myth the RBOCs have used to gain support for their efforts to block competition in local markets.

Second, the legislation should not prohibit the states from opening local markets to competition through such means as requiring dialing parity and allowing the joint marketing of long distance and local telephone service.

Third, provide access for competitors to resale and interconnection with the RBOCs' facilities at cost-based wholesale prices. Freedom of entry requires that the most efficient competitors be able to profit by buying RBOC services at wholesale prices. H.R. 1555 violates this condition through vague terms that allow the Bell companies to game the system. For example, H.R. 1555 originally provided resale at "economically feasible" rates and defined wholesale prices as retail prices less "avoidable" costs, a much more objective concept than the terms "avoided" and "reasonable" costs used in the amended bill. The original terms should be restored.

Fourth, businesses, residential customers and public institutions should have effective alternatives for facilities-based service before the Bell companies are allowed into long distance and other competitive markets. And there should be adequate safeguards for diversity and access in local and national media markets. Freedom of entry and freedom of consumer choice would do much to ensure both competition and media diversity.

Specifically, the conditions the RBOCs should meet before being allowed to enter competitive markets include:

1. The Bell company must meet a clearly worded checklist of conditions to foster local competition.

2. A facilities-based competitor should be able to provide services roughly comparable to those provided by the RBOCs.

3. The geographic area or market type (i.e., residential or business) to be served should not be the entire state (as in H.R. 1555), but the specific market (as in S. 652). It makes no sense to allow a Bell company to offer long distance services throughout a state when a rival, however insignificant, is available in part of a city.

4. The rival carrier should actually serve a significant number of customers (say, 10%) in the geographic area or type of market the RBOC petitions to serve.

5. The DOJ should determine whether or not a qualified facilities-based rival exists for the market the RBOC petitions to serve and should then determine that the RBOC's entry into that market would not have a substantial possibility to impede competition. H.R. 1555's test (that there must be a "dangerous probability of [the RBOC's] using market power to substantially impede competition") is far too restrictive and lacks the history of interpretation and use that the "substantial possibility" test has.
While the DOJ is making its determination, the FCC, the agency with the most telecommunications expertise, should determine that entry is in the public interest. H.R.

1555's vague language and the absence of an independent federal referee would make it possible for an RBOC to game the system. A role for the FCC and the DOJ would not only reduce the likelihood of such manipulation, but also would give the RBOCs incentives to accelerate competition in local markets.

7. In order to minimize discrimination and abuse, the RBOC should be required to offer competitive services through a separate subsidiary, as required by S. 652. The separate subsidiary should not sunset after 18 months, as provided in H.R. 1555.

Conclusions

Competition greatly reduces the need for regulation, but real competition and local media diversity are unlikely without regulatory oversight and safeguards. Regulations should be reformed to make them compatible with competitive market requirements, but government oversight cannot be eliminated entirely.

H.R. 1555 would be bad news for practically everybody except the RBOCs, media giants, and their stockholders. Fortunately, President Clinton has threatened to veto this bill unless it is changed to promote competitive markets and prohibit excessive concentration and control of the media. If these changes are not made, all who are concerned about America's future should work very hard to sustain the President's veto.

THE WHITE HOUSE
WASHINGTON

December 6, 1995

Peter:

As we have discussed, attached is the report of the Advisory Committee on Human Radiation Experiments and draft material on the Administration response to the report.

The most important parts of the report to focus on are the Findings and Recommendations sections. I believe EPA is implicated in the response to the Committee's recommendation 16.

Once you have looked this over and designated a point of contact at EPA, please let me know so that I can plug that person in to the interagency process for finalizing these responses.

Hope all is well.

Thanks

Phil

Peter Robertson
Chief of Staff
EPA 12-6-95
2 copies of final report were [redacted] also sent.

260-4700

PROPOSED GOVERNMENT RESPONSES TO RECOMMENDATIONS OF THE ADVISORY COMMITTEE ON HUMAN RADIATION EXPERIMENTS

Background

The Advisory Committee on Human Radiation Experiments, chaired by bioethicist Dr. Ruth Faden of Johns Hopkins University, was established by President Clinton in January, 1994. Acting in cooperation with federal agencies, which were directed by the President to search for records related to human radiation research and provide them to the Advisory Committee, the committee was charged to provide expert advice to the Cabinet-level Interagency Working Group on scientific and ethical issues related to biomedical experiments involving ionizing radiation and to a list of intentional environmental releases of radiation. The committee was to focus on the period 1944-1974 (when government-wide regulations on human subjects research were adopted) but was permitted to go beyond.

Final Report of the Advisory Committee

The committee's report, currently in near-final form, begins by identifying the ethical standards that applied to the government and to the medical and research professions in the post-war period. Several "case studies" are then reviewed in detail, including the injections of plutonium into 18 hospital patients during World War II, research with prisoners, and research funded by the military on patients who had previously been exposed to total body irradiation in clinical settings. Intentional environmental releases of radioactivity are also reviewed.

The committee also considered issues related to some radiation exposures associated with government activity that are not experiments; that is, persons were not exposed for the purpose of research. These include atomic veterans, uranium miners, and residents of the Marshall Islands exposed to fallout from U.S. weapons testing.

Finally, the committee reviewed 125 current or recent Federally-funded studies (not limited to radiation research) and interviewed patients at leading hospitals in order to gauge the adequacy of procedures for obtaining informed consent from subjects and evaluating research risks and to sample attitudes toward human subject research.

Advisory Committee Recommendations

The Committee's recommendations fall into the following three major areas:

- **Biomedical Experiments and Population Exposures, 1944-1974**

- **Current Human Subject Protection**

- **Secrecy and Openness**

Government Response to Recommendations

A group of representatives from all agencies represented in the Interagency Working Group, including the Departments of Energy, Defense, Health and Human Services, Veterans Affairs, and Justice, the National Aeronautics and Space Administration, and the Central Intelligence Agency, with participation by the Office of Management and Budget and the White House Office of Science and Technology Policy, has been meeting over the past month to consider government-wide options to address the recommendations of the Advisory Committee. This group divided into three subcommittees paralleling the three major areas of the Advisory Committee's recommendations. Each subcommittee developed options, which were presented to the entire group for discussion. The options covered the entire range of potential government responses, from those that agencies can take individually and in cooperation, to those that call for Presidential action.

The following three packages - one from each subcommittee - represent the consensus view of the group of agency representatives.

PROPOSED GOVERNMENT RESPONSE TO ADVISORY COMMITTEE RECOMMENDATIONS ON REMEDIES FOR BIOMEDICAL EXPERIMENTS AND POPULATION EXPOSURES FROM 1944 - 1974

SUMMARY

The responses described in the following pages address the findings and recommendations of the Advisory Committee on Human Radiation Experiments dealing with experiments and population exposures in the period 1944-1974, recommendations one (1) through seven (7). These recommendations are still undergoing revision by the committee and the proposed responses must therefore be considered as subject to change.

While the committee has not identified cases where subjects were physically harmed, it has identified a small number of cases occurring during WW II (less than 25 in total) where the government deliberately kept the true nature of the experiments from the subjects. In those cases, the committee recommends compensation to surviving family members.

The committee also considered issues related to some radiation exposures associated with govenment activity that were not experiments; that is, persons were not exposed for the purpose of research. These include atomic veterans, uranium miners and residents of the Marshall Islands exposed to the fallout from a 1954 nuclear weapons test. The committee's major recommendation for these groups is that existing laws governing compensation should be reexamined to assure fairness and equity.

The proposed responses described in more detail below would endorse the basic thrust of the committee's recommendations, including:

- An apology and a commitment to work with Congress to secure compensation commensurate with the violation of dignity in the case of the plutonium injection subjects and others identified by the committee who were treated similarly;
- Review of the standards governing compensation of uranium miners and the administration of laws governing compensation of atomic veterans;
- Review of whether new data call for expanding the scope of medical

programs for Marshall Islanders.

PROPOSED GOVERNMENT RESPONSES TO ADVISORY COMMITTEE RECOMMENDATIONS ON REMEDIES FOR BIOMEDICAL EXPERIMENTS AND POPULATION EXPOSURES FROM 1944-1974 (as of 9/25/95)

RECOMMENDATION 1

The Advisory Committee recommends to the Interagency Working Group that the government deliver a personal, individualized apology and provide financial compensation to the subjects of human radiation experiments in which efforts were made by the government to keep information secret from these individuals and from the public for the purpose of avoiding embarrassment and/or potential legal liability, and where this secrecy had the effect of denying individuals the opportunity to pursue alleged grievances.

RECOMMENDED GOVERNMENT RESPONSE

The President directs the Department of Energy to work with Department of Justice and the affected Department of Energy contractors to pursue reasonable compensation for, and apology to, the families of individuals identified by the Advisory Committee, either through settlement of outstanding claims or other forms of dispute resolution, such as the use of a neutral mediator or arbitrator.

RECOMMENDATION 2

The Advisory Committee recommends to the Interagency Working Group that for subjects of human radiation experiments that did not involve a prospect of direct medical benefit to the subjects, or in which intervention considered to be controversial at the time were presented as conventional or standard practice, and physical injury attributable to the experiment resulted, the government should deliver a personal, individualized apology and provide financial compensation to cover relevant medical expenses and associated harms (pain, suffering, loss of income, disability) to the subjects or their surviving immediate family members.

RECOMMENDED GOVERNMENT RESPONSE

The Administration agrees with the Advisory Committee that an apology and compensation is warranted for human radiation experiments for which there was governmental involvement in actions falling within the criteria identified by the Advisory Committee. Agencies will therefore be encouraged to pursue administrative resolution of such cases and, if necessary, seek expert advice on scientific and medical issues. The Administration is also willing to work with Congress to seek legislative relief in appropriate cases.

RECOMMENDATION 3

The Advisory Committee recommends to the Interagency Working Group that for subjects who were used in experiments for which there was no prospect of medical benefit to them and there is evidence specific to the experiment in which the subjects were involved that (1) no consent, or inadequate consent, was obtained, or (2) their selection as subjects constituted an injustice, or both, the government should offer a personal, individualized apology to each subject.

RECOMMENDED GOVERNMENT RESPONSE

[The preliminary Administration response is to thank the Committee for the recommendation, but to explain that the recommendation is unworkable given incomplete records, and a lack of criteria as to what constitutes an injustice.]

SECOND RECOMMENDATION 3

The Advisory Committee has found no subject of biomedical experiments for whom there is a need to provide active notification and medical follow-up for the purpose of protecting their health. In the event that other experiments of concern come to light in the future, we recommend to the Interagency Working Group that subsequent decisions for notification be based on evaluation of both the level of risk from radiation exposure and the potential benefit form medical follow-up in exposed individuals.

Additionally, the Advisory Committee has found no evidence to indicate that the subjects of human radiation experiments we reviewed would have had greater likelihood of incurring heritable (genetic) effects that the general population, and thus does not recommend notification or medical follow-up for descendants of subjects of human radiation experiments.

RECOMMENDED GOVERNMENT RESPONSE

Agree with the Advisory Committee that no further response is warranted at this time and that the criteria set forth by the Committee is appropriate for evaluating future cases.

RECOMMENDATION 4

The Advisory Committee recommends to the Interagency Working Group that it work with Congress to amend the Radiation Exposure Compensation Act of 1990 to encompass other populations environmentally exposed to radiation from government operations in support of the nuclear weapons program, should information become available that shows

that areas not covered by the legislation were sufficiently exposed that a cancer burden comparable to that found in geographic areas currently covered by the law may have resulted.

RECOMMENDED GOVERNMENT RESPONSE

The government agrees with the Committee's concern about treating exposed population fairly. Studies are underway that look at communities near the Hanford nuclear facility and at other sites including Fernald, Savannah River, Rocky Flats and Oak Ridge. If information is forthcoming showing increased cancer resulting from the operation of DOE facilities, the government will consider whether existing law should be amended to cover those affected.

RECOMMENDATION 5(1)

The Advisory Committee recommends to the Interagency Working Group that it work with Congress to ensure that the epidemiological tables that are relied upon to determine whether relief is appropriate for veterans who participated in atomic testing are reviewed and updated so that all cancers or other diseases for which there is a reasonable probability of causation by radiation exposure are clearly and unequivocally covered by the statutes.

RECOMMENDATION 5(2)

The Advisory Committee further recommends to the Interagency Working Group that it review whether existing laws governing compensation of atomic veterans are now administered in ways that produce the best balance in allocation of resources between financial compensation to eligible atomic veterans and administrative costs, including costs of dose reconstruction.

RECOMMENDED GOVERNMENT RESPONSE

The Secretary of Veterans Administration will appoint a Working Group that will include representatives from the Department of Veteran Affairs, the Department of Health and Human Services and the Department of Defense to provide a written report to the Interagency Working Group by January 31, 1995. The report will

- Recommend that most feasible way to accomplish updating the epidemiological tables to develop a budget request for the President's FY 1997 budget;
- Describe the administration of laws governing compensation of Atomic Veterans; and
- Recommend legislative and administrative changes that address the concerns identified by the Advisory Committee.

RECOMMENDATION 6

The Advisory Committee recommends to the Interagency Working Group that it work with Congress to amend the provisions of the Radiation Exposure Compensation Act of 1990 relating to uranium miners to provide compensation to all miners who develop lung cancer after some minimal duration of employment underground (such as one year), without requiring a specific level of exposure. The act should also be reviewed to determine whether compensation should be extended to include uranium millers, and documentation standards or all claimants should be liberalized.

RECOMMENDED GOVERNMENT RESPONSE

Agree with the Advisory Committee that the provisions of the Radiation Exposure Compensation Act of 1990 (RECA) relating to uranium miners should be reviewed to ensure that they are fair, comparable to compensation standards for other radiation-exposed populations and consistent with current scientific data. The Administration will establish a committee of experts to review the eligibility criteria of RECA in light of these concerns. The committee will also review the Department of Justice's implementing regulations under RECA to ensure that they are not unduly restrictive, and review existing data to determine whether further study of uranium millers and open-pit miners is warranted. The committee will be asked to complete its review within 6 months. Based on the committee's findings, the Administration will work with Congress to enact appropriate statutory changes, and amend the existing Department of Justice regulations as appropriate.

RECOMMENDATION 7

The Advisory Committee supports the Department of Energy's program of Medical monitoring and treatment for the exposed inhabitants of the Marshall Islands atolls of Rongelap and Utirk, and recommends that this program be continued as long as any member of the exposed population remains alive. Furthermore, the Advisory Committee recommends that the program be reviewed to determine if it is appropriate to add to the program the population of Ailuk, and the population of other atolls whose inhabitants may have been received exposure comparable to or greater than those of Ailuk. The Advisory Committee also recommends that consideration be given to the involvement of the Marshall Islanders in the design of any further medical research to be conducted upon them.

RECOMMENDED GOVERNMENT RESPONSE

Extensive analyses to date of radiation exposures in the Marshall Islands have indicated that the exposures to inhabitants of Ailuk and other northern Marshall Islands atolls were a factor of 30-90 times less than at Rongelap and about 10-25 percent of those at Utirik based upon external dose measurements and on estimates of thyroid dose. The connection between radiation exposure and thyroid disease is the subject of several ongoing studies sponsored by the U.S. Department of Energy

and managed by the Centers for Disease Control. If new data is developed to indicate that residents of atolls other than Utirik and Rongelap are at increased health risk, the Department will consider including them in an appropriate medical surveillance program.

The Department will embark in November, 1995, on an independent review of the Brookhaven National Laboratory Marshall Islands medical program. This independent review will be conducted by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and is designed to address the adequacy of the current medical monitoring and medical care programs.

Summary of Responses to ACHRE Recommendations 8-13

The responses that have been developed on the following pages to address Recommendations 8 through 13 of the Advisory Committee on Human Radiation Experiments (ACHRE) cover a broad range of approaches, some of which involve activities internal to the agencies and others which call upon external resources for implementation.

Among the responses are activities that can be implemented immediately while others will require some preliminary groundwork prior to full implementation. A third group of responses involve referring certain recommendations to the National Bioethics Advisory Commission, an independent body to be established by the President "to consider current and prospective issues pertinent to the conduct of research on human biology and behavior and to identify broad, overarching principles to govern the ethical conduct of such research".

Generally, the responses to the recommendations cover the following categories of activities:

- Remand specific ACHRE recommendations to the proposed National Bioethics Advisory Commission (NBAC) which will provide expert advice on issues of bioethics.

- Develop educational programs in concert with external groups such as medical schools, universities, scientific societies, and others to strengthen activities in human subjects protection, to provide a forum for addressing ongoing as well as emerging issues in humans subjects research, and to familiarize professionals engaged in nonfederally funded research with the ethical considerations in conducting research involving human subjects.

- Implement training programs within federal agencies to educate senior level officials on regulations and policies governing human subjects research, e.g, the activities proposed by the Department of Defense.

- Send official notifications to institutions conducting federally funded research (a) reminding them of their ongoing responsibilities with respect to IRB review and (b) informing them of their new responsibilities regarding additional requirements to be incorporated into the informed consent procedures and forms.

- Pool resources across agencies to conduct pilot projects to improve the efficiency and effectiveness of IRB review and to evaluate the Government's system for the protection of human subjects.

- Consider proposing legislation to remedy some of the gaps in the current system for protecting human subjects.

Recommendation 8

The Advisory Committee recommends to the Interagency Working Group that efforts be undertaken on a national scale to ensure the centrality of ethics in the conduct of scientists whose research involves human subjects.

The Government has in recent years mounted several activities that address this subject. For example:

- DHHS: The National Institutes of Health (NIH) requires all institutions receiving National Research Service Award institutional training grants to provide pre- and postdoctoral trainees on these grants with instruction in the responsible conduct of research. This curriculum includes, among other things, policies on the appropriate use of human subjects and animals in research.

- DHHS: The NIH completed development of a Core Curriculum in Clinical Research to train young clinical investigators in its Clinical Center. This course, which is mandatory, includes several modules on protection of human subjects and a specific module on bioethics.

- NASA: Established an external Bioethics Task Force to review NASA procedures for all experimentation involving human subjects and to recommend appropriate policy changes. Report to be issued in fall 1995.

- DOE: Holds educational regulatory and bioethics update meetings for the entire DOE system (to which other federal agencies are also invited).

- DOD: Convenes an annual Tri-Service Clinical Investigations Postgraduate Short Course, generally attended by 200-300 physicians, scientists, nurses, pharmacists and other research support personnel, that emphasizes contemporary human subjects protection issues.

- DOE: Has computerized and established worldwide web access to the Department's human subjects newsletter, resource manual and database.

- DOD: Requires investigators' familiarity with the Belmont Report, the Common Rule, DOD Directives and all applicable regulations and instructions through the assurance process with each facililty.

- VA: Has established a special office to conduct random site visits to VA medical centers to review local implementation of national VA policy for the protection of human subjects.

Response

(a) A major effort will be launched to "upgrade" or expand these activities. These will consist of:

- DHHS: The NIH Clinical Center Clinical Bioethics Program will be expanded and additional resources will be provided, including an SES position, FTEs and space. Following implementation and assessment in the NIH Clinical Center, the Core Curriculum in Clinical Research may be offered to trainees in extramural institutions and/or further disseminated by publication of the syllabus or making it available on the Internet.

- DOE: Will be requiring educational/ethics updates from all DOE institutions that are involved with human subjects research. Will be establishing an educational plan for all IRBs beginning in FY 1996.

- DOD: Will adopt the investigator assurances of familiarity with the Belmont Report, the Common Rule and related requirements as a standard for all activities involving human subjects research. Will incorporate research ethics into graduate medical education curricula at Military Department teaching hospitals.

- NASA: Works with international partners to enhance the ethical training and understanding of all investigators involved in space-related human research and to ensure an transnational sensitivity to ethical issues in human subjects research.

(b) Invite associations of medical schools and universities as well as scientific societies to join with the Government in launching a broad initiative to heighten the consciousness of the research community with respect to ethics of human subjects research. These might include the expansion of existing university-based research ethics programs and convening workshops in conjunction with the annual meetings of these different organizations.

(c) OPRR can convene, in conjunction with its counterparts in the other federal agencies, 2-3 regional workshops of IRB chairpersons to allow for the exchange of ideas/approaches, to stimulate the discussions of common problems and to address emerging issues in the arena of human subjects protection.

(d) The President can announce that he will be signing an Executive Order establishing the National Bioethics Advisory Commission (NBAC) and introduce the chairperson of the Commission.

Recommendation 9

The Advisory Committee recommends to the Interagency Working Group that the IRB component of the federal system for the protection of human subjects be changed in at least the five critical areas described below.

1. **Mechanisms for ensuring that IRBs appropriately allocate their time so as to enable adequate review of studies that pose more than minimal risk to human subjects. This may include the creation of alternative mechanisms for review and approval of minimal risk studies.**

   Response

   (a) Agencies will remind institutions and their IRBs that the current regulations provide for an expedited review process for certain categories of minimal risk research and for minor changes in ongoing research and emphasize their continued and enhanced use of this mechanism.

   (b) Consider extending a pilot program to reduce the administrative burdens on award applicants (known at NIH as the "Just-In-Time" experiment) to include a feature that would permit IRBs to delay their review of proposed research until preliminary determinations of the proposals' competitiveness have been made by the agency.

   (c) Ask the Human Subjects Research Subcommittee of the Health, Safety and Food Research Committee of the National Science and Technology Council to consider the implications of implementing this subrecommendation.

2. **Mechanisms for ensuring that the information provided to potential subjects (a) clearly distinguishes research from treatment, (b) realistically portrays the likelihood that subjects may benefit medically from their participation and the nature of the potential benefit, and (c) clearly explains the potential for discomfort and pain that may accompany participation in the research.**

3. **Mechanisms for ensuring that the information provided to potential subjects clearly identifies the federal agency or agencies sponsoring or supporting the research project in whole or in part and all purposes for which the research is being conducted or supported.**

4. **Mechanisms for ensuring that the information provided to potential subjects clearly identifies the financial implications of deciding to consent to or refuse participation in research.**

Response

(a) Implement the above three subrecommendations by instructing IRBs and investigators to address these issues in protocols and consent procedures/forms.

(b) Announce that on October 2-3, 1995, the Department of Energy, in conjunction with the Subcommittee on Human Subjects Research, Committee on Health, Safety, Food Research & Development, National Science and Technology Council, will convene staff from all federal agencies conducting or supporting human subjects research. Federal officials will be briefed on ACHRE findings and recommendations and caucus for 2 days on at this conference. (The Subcommittee on Human Subjects Research meets bimonthly to coordinate implementation of the Federal Policy for Protection of Human Subjects and will
be assessing actions to be taken by federal officials subsequent to the October 2-3 conference.)

5. **Recognition that if IRBs are to adequately protect the interests of human subjects, they must have the responsibility to determine that the science is of a quality to warrant the imposition of risk or inconveience on human subjects and, in the case of research that purports to offer a prospect of medical benefit to subjects, to determine that participating in the research affords patient-subjects at least as good an opportunity of securing this medical benefit as would be available to them without participating in research.**

Response

Issue an official reminder to IRBs that they already have the responsibility to review the science in research proposals to determine the appropriateness of the use of human subjects in such research, and to stress that patients participating in therapeutic research should have access to the same level of medical care that would have been available to them were they not participating in research. IRBs have the authority to call upon external resources for expertise in areas not represented by their members.

Recommendation 10

The Advisory Committee recommends to the Interagency Working Group that a mechanism be established to provide for the continuing interpretation and application of ethics rules and principles for the conduct of human subject research in an open and public forum. This mechanism is not provided for in the Common Rule.

Response

The National Bioethics Advisory Commission would be the ideal body to implement this recommendation. Inasmuch as the NBAC is intended "to consider current and prospective issues pertinent to the conduct of research on human biology and behavior and to identify broad, overarching principles to govern the ethical conduct of such research", this recommendation fits very appropriately with the NBAC's charter. Under provisions of the Federal Advisory Committee Act, all NBAC meetings would be open and provide for public access. (See Recommendation 8, Option d.)

Recommendation 11

The Advisory Committee recommends to the Interagency Working Group that at least the following four steps be taken to improve existing protections of the rights and interests of military personnel with respect to human subjects research.

1. **Review of policies and procedures: Policies and procedures governing research involving human subjects should be reviewed to ensure that they (1) clearly state that participation as research subjects by members of the armed services is voluntary and without repercussions for those who choose not to participate; and (2) clearly distinguish those activities that are research and therefore discretionary on the part of the member of the armed services from other activities that are obligatory, such as training maneuvers and medical interventions intended to protect the troops.**

   Response

   DOD Directives and Military Department regulations require the voluntary and fully informed consent of any person participating as a subject in research projects sponsored or conducted by the Department, as required by 32 CFR 219 (The Common Rule).

2. **Appreciation of regulations: Education in applicable human subjects regulations should be a routine component of the training of officers and of investigators.**

Mechanisms are needed to ensure that all officers and investigators have an adequate appreciation of all regulations (including DOD regulations and directives and Service regulations) that bear on the conduct of research involving human subjects, including an appreciation of the conditions under which such regulations apply, the role of officers in interpreting such regulations, and how such regulations are to be implemented.

Response

DOD will incorporate education in human subjects regulations into executive level training for commanders and senior leadership. DOD will also incorporate methods for
providing detailed training for investigators, institutional review board members, research administrators and research support personnel.

3. **Maximizing voluntariness: The Service Secretaries should consider the situations under which it would be appropriate to make obligatory two practices for maximizing voluntariness that have been employed on an *ad hoc* basis in some military research. First, that no unit officers nor noncommissioned officer (NCOs) be present at any subject recruitment session in which members of units are informed of the opportunity and asked to partiicipate in research by investigators; and second, that an ombudsman not connected in any way with the proposed research be present at all such recruitment sessions to monitor that the voluntariness of participation is adequately stressed and that the information provided about the research is adequate and accurate.**

Response

(a) DOD is revising its Directive or Military Department regulations such that officers and senior noncommissioned officers in the chain of command will not be present during research recruitment briefings. This requirement shall apply to research and development studies where briefings are given to potential subjects.

(b) DOD is also revising its Directive or Military Department regulations to require that an ombudsman be present at group recruitment briefings to monitor that the voluntary nature of participation is stressed and that adequate information is provided about the proposed research.

4. **Maintenance of a registry: The Secretaries of the Navy and the Air Force should be directed to adopt the policy of the Army, as detailed in Army Regulation 70-**

25, to maintain a registry of all volunteers in human studies and experiments conducted under Research and Development programs. Such registries serve to facilitate confirmation of participation in research by subjects and their long-term follow-up.

Response

DOD is revising its Directive on human subjects research to include a provision that each of the Military Departments establish and maintain a registry of volunteers in biomedical studies conducted under research and development programs.

Recommendation 12

The Advisory Committee recommends that the Interagency Working Group take steps to improve three elements of the current federal system for the protection of the rights and interests of human subjects -- oversight, sanctions and scope.

Response

The following three subrecommendations should be collectively referred to the National Bioethics Advisory Commission. However, *additional* strategies are also outlined below.

1. **Oversight mechanisms to examine outcomes and performance.**

   Response

   (a) Develop an interagency grants program to stimulate the research community to propose a variety of approaches to evaluating the performance and outcomes of the Government's system for protecting the rights/interest of human subjects, e.g., the recent program announcement of the National Institute of Mental Health seeking proposals for studying the informed consent process in research subjects with mental disorders.

   (b) Strengthen the federal agency offices with responsibility for oversight of human subjects protection.

   (c) Initiate a program for evaluating the cost effectiveness of different approaches for ensuring quality control of institutional systems for protection of human subjects.

   (d) Implement the NIH study to evaluate the implementation of the federally mandated Human Subjects Protection Program, specifically the extent to which the Program provides adequate protection for the rights and well-being of human subjects.

2. **Appropriateness of sanctions for violations of human subjects protection.**

Response

(a) Provide the same sanctions for violation of human subjects regulations as exist for violation of animal welfare regulations.

(b) In the case of DOD, failure to comply with its Directives and Military Department
regulations can result in administrative and judicial punishment under the Uniform Code of Military Justice.

3. **Extension of human subjects protection to nonfederally funded research.**

Response

(a) Enact legislation that would extend requirements for protection of human subjects to research not funded or conducted by the Federal Government (such as most research involving assisted reproductive technologies).

(b) Work with the American Medical Association, state medical societies and state licensing boards to launch an educational program to familiarize physicians and

others engaged in nonfederally funded research with the ethical considerations in conducting human subjects research.

Recommendation 13

The Advisory Committee recommends that the federal government review the area of compensation for research injuries of future subjects of federally funded research, particularly reimbursement for medical costs incurred as a result of injuries attributable to a subject's participation in such research, and create a mechanism for the satisfactory resolution of this long-standing social issue

Response

This issue has been studied off and on over the last 20 years but, because of its complexity, has never reached resolution. With the establishment of the proposed National Bioethics Advisory
Commission and the release of the ACHRE report calling for compensation of subjects involved in Cold War era radiation experiments, the time may be right for a definitive examination of the issue and development of recommendations/guidelines for compensation of

injured human subjects.

Secrecy and Openness Subcommittee

PROPOSED GOVERNMENT RESPONSE TO ADVISORY COMMITTEE RECOMMENDATIONS ON SECRECY AND OPENNESS

SUMMARY

The responses described in the following pages address the findings and recommendations of the Advisory Committee on Human Radiation Experiments in the area of secrecy and openness, recommendations 14 through 17. These fall into two general categories. First, additional safeguards are recommended for classified human subjects research and environmental oversight of classified programs. These recommendations are not limited to radiation - related research or programs. Second, the committee calls for continued progress in making government records publicly accessible .

The proposed government actions, summarized below, range from those that can be announced immediately and would apply across the government to those which will require additional development and consultation:

- Presidential directive that no waivers of full informed consent will be permitted in classified research and that the government sponsoring agency will be disclosed to potential subjects in all classified research;
- Request that EPA review whether additional steps are necessary to ensure robust environmental oversight of classified programs;
- Direct the Interagency Working Group, working with the National Archives and Records Administration, to develop an aggressive plan to increase public accessibility of government's records, including the use of new technological advances and to review policies governing access to records of contractors;
- Redesignate records related to human subjects research to prevent destruction in the future;
- High-priority review by the National Archives of CIA record-keeping system, addressing means to improve public access;
- Direct CIA to give top priority in declassification review to human subjects research records.

PROPOSED GOVERNMENT RESPONSE TO ADVISORY COMMITTEE RECOMMENDATIONS ON SECRECY AND OPENNESS

RECOMMENDATION 14a: The Advisory Committee recommends to the Interagency Working Group the adoption of a Federal policy requiring the informed consent of all human subjects of classified research, and that this requirement not be subject to exemption or waiver. In all cases, potential subjects should be informed of the identity of the sponsoring Federal agency and that the project involves classified information.

RECOMMENDED GOVERNMENT RESPONSE:

The President directs all departments and agencies that, effective immediately, there will be no federal funding of classified research where an Institutional Review Board has waived informed consent or where a determination has been made that the research is exempt from IRB review. President also directs that in all Federally funded classified research, two additional elements of information will henceforth be provided when consent is sought from potential human subjects: (i) the identity of the sponsoring Federal agency, and (ii) a statement that the project involves classified information.

The National Bioethics Advisory Committee is requested to evaluate whether the federal rules governing human subjects protection should be revised to codify the President's directive.

RECOMMENDATION 14b: The Advisory Committee recommends to the Interagency Working Group the adoption of a federal policy requiring that classified research involving human subjects be permitted only after the review and approval of an independent panel of appropriate nongovernmental experts and citizen representatives with security clearances, charged with determining:1) that the proposed experiment has scientific merit; 2) that risks to subjects are acceptable and risk/benefit balance is appropriate; 3 that prospective subjects have been fully informed and participation is voluntary. Records should be kept permanently.

RECOMMENDED GOVERNMENT RESPONSE:

Institutional Review Boards ("IRB") are already required to include at least

one member not affiliated with the institution. The President directs all agencies to ensure the participation of non-government persons in review of classified research, either by establishing a dedicated panel for classified research or by ensuring that IRB members all have the necessary security clearances.

RECOMMENDATION 15a: The Advisory Committee recommends that an independent review panel be assigned the task of reviewing any planned or intended environmental releases of substances in cases where the release is proposed to take place in secret, or in circumstances where any aspect of the environmental review process required by law is conducted in secret.

RECOMMENDED GOVERNMENT RESPONSE:

The President indicates that EPA, in conjunction with Federal agencies conducting classified programs, has an initiative underway to improve environmental oversight and establish more rigorous regulatory procedures for classified facilities. Creating a new regulatory entity would add to the bureaucratic complexities of ensuring environmental safety but the President will seek EPA's views on whether additional steps are necessary to ensure robust environmental oversight of classified facilities and programs.

RECOMMENDATION 15b: The Advisory Committee recommends to the Interagency Working Group that an appropriate government agency, currently the Environmental Protection Agency, maintain a program directed at the oversight of classified programs, with suitably cleared personnel. This program should maintain critical records, such as environmental impact statements and environmental permits permanently. The agencies subject to regulation should ensure the timely consideration of environmental impacts and oversight and the timely provision of all necessary clearances. EPA should provide regular unclassified reports to Congress describing the extent of its activities as well as any significant problems.

(The Interagency Working Group sought clarification from the Committee on the intent of this recommendation. According to the executive director, the Committee is not asking here for expansion of EPA's substantive authority under NEPA and other existing environmental laws.)

RECOMMENDED GOVERNMENT RESPONSE:

The President directs that permanent files on classified environmental impact statements and environmental review of classified activities shall be maintained by EPA.

RECOMMENDATIONS 16(1), 16(2), 16(3): The Advisory Committee recommends that the Interagency Working Group take steps to ensure the continued application of the lessons learned from the efforts to organize and make accessible to the public, and the government itself, the nations's historical records.

(1) The most important historical collections should be entrusted to the National Archives. The agencies and the National Archives should review the extent to which this is now being done and develop policies to hasten the transfer of agency records to the National Archives.

(2) Agencies should make readily available all existing inventories, indices, folder listings and other finding aids to record collections now under agency control. Classified finding aids should undergo declassification review and declassified versions of these finding aids should be also be made available.

(3) The Interagency Working Group should ensure the development of policies to improve public access to records held by agencies or deposited in Federal Record Centers.

RECOMMENDED GOVERNMENT RESPONSE:

The President commends the agencies for the progress made through this project in delivering information to people. He commits the administration to continuing aggressively down the path to openness exemplified by this and other initiatives. He directs the Interagency Working Group, working with the National Archives and Records Administration, to advise him on measures to make the government's records more readily accessible to citizens, which should include consideration of the potential uses of new technology to enhance access. The Interagency Working Group should be asked to report back by a date certain within a few months.

RECOMMENDATION 16(4): The Advisory Committee recommends that agencies maintain complete records, available to the public, of document destruction.

RECOMMENDED GOVERNMENT RESPONSE:

The President should, via Executive Order, institute new policy regarding human subjects research records of destruction. Such Order should mandate that all records of destruction regarding classified research be maintained permanently by National records Centers. Disposition instruction of current records should be updated to reflect new policy with specific emphasis on enforcement of records maintenance standards at all levels.

The President also directs that all records of classified projects involving human subject testing are to be labeled "permanent retention" in all agencies. This indicates that they are of historical value, must be reviewed for declassification 25 years after their creation and should go to the National Archives at 30 years.

RECOMMENDATION 16(5): The Advisory Committee recommends that the Interagency Working Group review and develop policies concerning public access to records generated or held by private contractors and institutions receiving Federal funding.

RECOMMENDED GOVERNMENT RESPONSE

The President directs the Interagency Working Group to develop guidelines for performing the policy review called for by this recommendation. The President also directs the Departments of Justice and State to review existing laws and regulations related to the implementation of this recommendation.

RECOMMENDATION 17a: The Advisory Committee recommends that the CIA's recordkeeping system be reviewed to ensure that records are accessible upon legitimate request from the public or governmental sources.

RECOMMENDED GOVERNMENT RESPONSE:

The President directs the National Archives and Records Administration to give priority to its review of CIA's records system that is scheduled for October 1995. NARA is specifically directed to address means to improve public access to the agency's records.

RECOMMENDATION 17b: The Advisory Committee recommends that all CIA records bearing on programs of secret human research, such as MKULTRA and the related CIA human behavior projects from the late 1940s through the early 1970s, become a top priority for declassification review, with the expectation that most, if not all, of these documents can be declassified and made available to the public.

RECOMMENDED GOVERNMENT RESPONSE:

The President directs CIA, as part of its compliance with the Executive Order 12958, to give top priority to declassification review of records related to human subject research.

Todd,

To ~~Jim Dorsland for~~ reply?

~~Yes~~

~~No~~

NJC for reply handling



European Bank
for Reconstruction and Development

Jacques de Larosière
President

William J Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington DC - 20500
USA

4 December 1995

Dear Mr President,

The European Bank for Reconstruction and Development (EBRD) is now actively working on the preparation of the reconstruction programme for Bosnia-Herzegovina.

Our efforts have been made possible by the remarkable initiatives undertaken by your Government in seeking a peaceful solution to the conflict. I would like to congratulate you for the successful outcome of the Dayton Proximity Talks which provide a valuable base upon which to build peace and undertake reconstruction. The maintenance of peace remains the single most important pre-condition for EBRD financing of Bosnian reconstruction.

The EBRD is working on emergency reconstruction projects in the telecommunications, power and road sectors and on financing small and medium size enterprises in Bosnia's private sector. We are co-operating closely with the World Bank in the public sector infrastructure projects.

Finally, I have asked EBRD First Vice President Ron Freeman immediately to inform Congressmen designated by Secretary Rubin's staff of the EBRD's financing programme in Bosnia. Mr Freeman will copy the Treasury on his contacts with the Congressmen.

Sincerely yours,

J. de Larosière

Jacques de Larosière

THE WHITE HOUSE
WASHINGTON, D.C. 20500

DATE: 12.8

TO: Sandy Berger

FROM: **Staff Secretary**

How do you want to handle this?

LAW OFFICES
VERNER, LIIPFERT, BERNHARD, McPHERSON AND HAND
Chartered
901 - 15th Street N.W., Suite 700
Washington, D.C. 20005-2301
(202) 371-6000
Telex: 1561792 VERLIP UT
Telecopier: (202) 371-6279

95 DEC -5 PM 3:14

VERNER, LIIPFERT, BERNHARD, McPHERSON AND HAND

TELECOPIER COVER PAGE

DATE: December 5, 1995

TO: Nancy Hernreich OFFICE OF: Executive Office of the President

FROM: Amy Bondurant ORIGINATOR'S TEL. NO.: (202) 371-6264

TELECOPIER NO.: (202) 456-6703 TOTAL NO. OF PAGES 10
(INCLUDING COVER PAGE)

CONFIRMATION NO.: (202) 456-6610 CLIENT/MATTER NO.: 9000,160

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****

SPACE FOR ADDITIONAL MESSAGE

****

FOR TELECOPIER OPERATOR ONLY

TRANSMITTED: DATE: _____ TIME: _____ OPERATOR: _____

****

FOR ASSISTANCE CALL TELECOPIER OPERATOR AT (202) 371-6245

VERNER · LIIPFERT
BERNHARD · MCPHERSON AND HAND
CHARTERED

901 - 15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301
(202) 371-6000
FAX: (202) 371-6279

MEMORANDUM

TO: Nancy Hernreich

FROM: Amy Bondurant

RE: Request for Meeting with President Clinton

DATE: December 5, 1995

I appreciated your help in recently passing along to the President the attached letters from the CEO's of seven major aerospace companies dealing with U.S. policy on space launch services agreements with Ukraine and Russia. They continue to be very concerned that the Administration is now, apparently, proposing to implement a policy that they believe will seriously jeopardize the domestic commercial space launch industry.

Because of their deep concerns, they would like to meet with the President on this matter. They propose the afternoon of December 12 or any time on December 13 for such a meeting, but obviously would be available at any time.

I appreciate any help you can give on this matter. I will call you later today to follow up.

VERNER · LIIPFERT
BERNHARD · McPHERSON AND HAND
CHARTERED

901 - 15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301
(202) 371-6000
FAX: (202) 371-6279

WRITER'S DIRECT DIAL
(202) 371-6034

November 15, 1995

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

Dear Mr. President:

I have been asked to transmit to you the attached letters from the Chief Executive Officers of Alliant Techsystems, Allied Signal Aerospace, GenCorp Aerojet, ITT Defense & Electronics, McDonnell Douglas Aerospace, Rockwell and Thiokol.

As you see, these companies are extremely concerned about the impact which proposed space launch services agreements with Russia and the Ukraine will have on their businesses and on the continued viability of the domestic U.S. launch industry. They fear a significant loss of jobs, in such states as California, Colorado, New Jersey, Florida, Utah, and Minnesota, among others, should the current proposal be implemented.

We understand that the U.S. position is now being finalized. We hope that you will give due regard to the positions of these companies as you consider this issue. We appreciate your attention to this matter and I look forward to seeing you and Hillary during the Holidays.

Sincerely,

Amy Bondurant

Enclosures

(Original sent directly to The President)

ALLIANT TECHSYSTEMS

Richard Schwartz
President and
Chief Executive Officer

Alliant Techsystems Inc.
MN11-2012
600 Second Street NE
Hopkins, MN 55343-8384

Tel 612 931-3900

14 November 1995

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

Dear Mr. President:

The Administration's 1994 National Space Transportation Policy recognized the importance of the U.S. commercial space transportation industry and sought to promote free and fair trade so that the U.S. industry could fully compete in the world markets. The U.S. space launch industry supports the goals set out in the Policy; and, based on that Policy, significant investments have been undertaken to assure that we have the capabilities to meet the demands of the marketplace.

The Policy contained a commitment to negotiate and enforce commercial space launch services agreement with relevant non-market economy countries and a commitment to keep all U.S. government launches on U.S. launchers. We now understand, however, that the Administration is planning to negotiate a new space launch agreement with Ukraine and reopen the current agreement with the Russians. The cumulative impact may be to more than double the number of launches available to the non-market economy countries.

We believe that this result will have a significant adverse impact on the viability of the U.S. space launch effort. We are concerned that the remaining number of addressable launches will not be sufficient to sustain a viable, competitive U.S. industry. Such a result has the potential of eliminating tens of thousands of high technology, high wage jobs in key states such as California, Florida, Utah, and Minnesota, among others.

Representatives of our industry would like to meet with U.S. policy makers prior to the Ukrainian and Russian negotiations so that they are fully aware of the implications of this apparent change in U.S. policy on the U.S. launch industry. Thank you for your consideration. We look forward to working with you on this critical national policy issue.

Sincerely,

Richard Schwartz

AlliedSignal
AEROSPACE

AlliedSignal Inc.
2525 West 190th Street
Torrance, CA 90504-6099

310 512 3636
310 512 1197 Fax

Daniel P. Burnham
President

November 15, 1995

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

Dear Mr. President:

The Administration's 1994 National Space Transportation Policy recognized the importance of the U.S. commercial space transportation industry. It sought to promote free and fair trade so that the U.S. industry could fully compete in world markets. The U.S. space launch industry supports the goals set out in the Policy and, based on that Policy, significant investments have been undertaken to assure that we have the capabilities to meet the demands of the marketplace.

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We believe that this result will have a significant adverse impact on the viability of the U.S. space launch effort. We are concerned that the remaining number of addressable launches will not be sufficient to sustain a viable and competitive U.S. industry. Such a result has the potential of eliminating tens of thousands of high technology, high wage jobs in states such as California, Florida, New Jersey, Utah, and Minnesota, among others.

We ask you to provide an opportunity for representatives of our industry to meet with relevant U.S. policy makers prior to Ukrainian and Russian negotiations. Our intention would be to provide data in sufficient detail to make these officials fully aware of the implications of this apparent change in U.S. policy on the U.S. launch industry.

Thank you for your consideration. We look forward to working further with your Administration on this critical national policy issue.

Sincerely,

D. P. Burnham

GENCORP
AEROJET

P O Box 13222
Sacramento CA 95813-6000

(916) 351-8616

Roger I. Ramseier
President

14 November 1995

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

Dear Mr. President:

The Administration's 1994 National Space Transportation Policy recognized the importance of the U.S. commercial space transportation industry and sought to promote free and fair trade so that the U.S. industry could fully compete in the world markets. The U.S. space launch industry supports the goals set out in the Policy and, based on that Policy, significant investments have been undertaken to assure that we have the capabilities to meet the demands of the marketplace.

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Representatives of our industry would like to meet with U.S. policy makers prior to the Ukrainian and Russian negotiations so that they are fully aware of the implications of this apparent change in U.S. policy on the U.S. launch industry. Thank you for your consideration. We look forward to working with you on this critical national policy issue.

Sincerely,

Roger I. Ramseier



ITT Defense & Electronics

Louis J. Giuliano
President and CEO

November 15, 1995

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

Dear Mr. President:

The Administration's 1994 National Space Transportation Policy recognized the importance of the U.S. commercial space transportation industry. It sought to promote free and fair trade so that the U.S. industry could fully compete in world markets. The U.S. space launch industry supports the goals set out in the Policy and, based on that Policy, significant investments have been undertaken to assure that we have the capabilities to meet the demands of the marketplace.

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We believe that this result will have a significant adverse impact on the viability of the U.S. space launch effort. We are concerned that the remaining number of addressable launches will not be sufficient to sustain a viable and competitive U.S. industry. This could also undermine ITT's developing California Spaceport at Vandenberg Air Force Base, as well as Florida's commercial spaceport. Such a result has the potential of eliminating tens of thousands of high technology, high wage jobs in states such as California, Florida, Utah, and Minnesota, among others.

We ask you to provide an opportunity for representatives of our industry to meet with relevant U.S. policy makers prior to the Ukrainian and Russian negotiations. Our intention would be to provide data in sufficient detail to make these officials fully aware of the implications of this apparent change in U.S. policy on the U.S. launch industry.

Thank you for your consideration. We look forward to working further with your Administration on this critical national policy issue.

Sincerely,

1650 Tysons Boulevard, Suite 1700, McLean, VA 22102

MCDONNELL DOUGLAS

JOHN P. CAPELLUPO
President McDonnell Douglas Aerospace

November 15, 1995

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

Dear Mr. President:

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Thank you for your consideration. We look forward to working further with your Administration on this critical national policy issue.

Sincerely,

John Capellupo

P.O. Box 516, Mailcode 0013122, St. Louis, MO 63166-0516 (314) 234-7000

Rockwell International Corporation
World Headquarters
2201 Seal Beach Boulevard
PO Box 4250
Seal Beach, CA 90740-8250
310.797.5127
drbeall@corpsb.remnet.rockwell.com

Rockwell

Donald R. Beall
Chairman of the Board and
Chief Executive Officer

November 14, 1995

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

Dear Mr. President:

The Administration's 1994 National Space Transportation Policy recognized the importance of the U.S. commercial space transportation industry and sought to promote free and fair trade so that the U.S. industry could fully compete in the world markets. The U.S. space launch industry supports the goals set out in the Policy and, based on that Policy, significant investments have been undertaken to assure that we have the capabilities to meet the demands of the marketplace.

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Sincerely,

Don Beall

Donald R. Beall

THIOKOL CORPORATION
2475 WASHINGTON BOULEVARD
OGDEN, UTAH 84401-2398
801-629-2052 FAX: 801-629-2422

THIOKOL
SPACE • DEFENSE • FASTENING SYSTEMS

JAMES R. WILSON
PRESIDENT AND CHIEF EXECUTIVE OFFICER

November 14, 1995

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

Dear Mr. President:

The Administration's 1994 National Space Transportation Policy recognized the importance of the U. S. commercial space transportation industry and sought to promote free and fair trade so that the U. S. industry could fully compete in the world markets. The U. S. space launch industry supports the goals set out in the Policy and, based on that Policy, significant investments have been undertaken to assure that we have the capabilities to meet the demands of the marketplace.

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Sincerely,

James R. Wilson
Chairman, President and
Chief Executive Officer

12-4-95

Phil —

Should this go to you or (Todd) —
Then send to NSC for appropriate action)
~~Reg to~~
Quick turnaround PS - BC sig
Yes ✓
no —

C.

Please advise.
Do they have the
power — the clout &
pressure needed to
make it a
public-private
partnership — Ask

Facsimile Cover Sheet

To: Susan Brophy – SUSAN BROPHY.
Company: WHITE HOUSE
Phone:
Fax: 001 - 202 456 6220.

From: JACKIE ~~REBRATH~~.
Company: Gt. Shankill Development Agency
Phone: 01232 - 311455
Fax: 01232 - 311413.

Date: Dec 4 1995.
Pages including this cover page: 2.

Comments:

Susan,

'Twas great to see you again in Belfast.

What a day – I believe President Clinton has saved the Peace.

Can you make sure this letter gets to the Right desk – please?

Until the next time

Jackie

Greater Shankill Development Agency

236-242 SHANKILL ROAD • BELFAST BT13 2BL

Fax No.: (0232) 333648 Telephone: (0232) 332022

4 December 1995

President W.J Clinton
The White House
Washington DC
United States of America

Dear President Clinton

Your visit to Belfast has been truly inspirational.

At a time when hopes were dimming you have enabled us to refocus on the priority of peace and the possibility of a new society.

The bell of hope you rang in Washington on the eve of your inauguration, has never sounded more clearly than in Belfast last Thursday.

While the road forward must be walked by all our people, both Shankill and Falls, we need you walking it with us.

Yours sincerely

Jackie Redpath

JACKIE REDPATH

had mentioned they'd look thru them over Thanksgiving. Carolyn was not in office to confirm. -MF

THE WHITE HOUSE

WASHINGTON

cc w/inc.
Gift Unit

November 28, 1995

Gordon B. Hinckley
President
The Church of Jesus Christ
of Latter-Day Saints
47 East South Temple Street
Salt Lake City, Utah 84150

Dear Gordon:

Hillary, Chelsea, and I wanted to thank you for the wonderful genealogies of our families. They were especially timely as we spent Thanksgiving with both sides of our family -- we had a great time pouring through them and learning all about our ancestors. We will certainly cherish these Family Histories for many years to come.

It was so good to meet you and Elder Maxwell, and I hope we'll have the chance to visit again in the near future.

Sincerely,

Bill Clinton

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
47 EAST SOUTH TEMPLE STREET
SALT LAKE CITY, UTAH 84150

GORDON B. HINCKLEY

November 17, 1995

Dear President Clinton:

Thank you again for the time we were able to spend with you in the Oval Office last Monday, especially in view of all the pressures which were upon you. I have stated publicly how cordial and warm the experience was and how appreciative you seemed to be with the Family Histories.

With regard to your genealogy, I mentioned that it was our understanding you had already received from the New England Historic Genealogical Society information pertaining to your Blythe and Cassidy lines. Regardless of what you have previously received, a copy of the New England Historic Genealogical Society publication is included under the Cassidy tabs in Volume I (*Clinton-Blythe-Cassidy*) of the Family History binders presented to you and your family. Thus, when you have time to review with Mrs. Clinton and Chelsea and any other family members the family histories, you will be seeing a collection of all that is presently available, more than has ever been assembled before.

Again, my appreciation for the time together, and may the Lord bless you in your heavy responsibilities.

Sincerely,

Gordon B. Hinckley
President

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

cc w/ incoming
· Scheduling
· Hillary Clinton

THE WHITE HOUSE

WASHINGTON

November 28, 1995

Julie Andrews
151 El Camino
Beverly Hills, California 90212

Dear Julie:

Thanks so much for your very kind note and for your generous invitation to come see "Victor/Victoria." Hillary and I have heard great news about the show, and we really appreciate your thinking of us.

Please give our best regards to Blake.

Sincerely,

Bill Clinton

JULIE ANDREWS

7th November 1995

President Bill Clinton
The White House
WASHINGTON

Dear President Clinton :

How kind of you and your wife to send me birthday greetings; it was a tremendous thrill to receive your note and so thoughtful of you to do such a nice thing.
I did have a wonderful day - although I seem to remember it was also the occasion of our first dress rehearsal!

I imagine it would be difficult for you - with your incredibly busy schedule - to see our little epic, but it goes without saying that, if it was possible, we would be so pleased to have you join us ... and I think you would have a good - and hopefully relaxing - time.

Blake joins me in sending you both our warmest regards.

With Love, from

Julie

cc: w/incoming
Nicole Elkon
Rm 184

THE WHITE HOUSE

WASHINGTON

November 28, 1995

Satoshi Iue
Chairman & CEO
Sanyo Electric Co., Ltd.
5-5 Keihan-Hondori 2-chome
Moriguchi City, Osaka 570
JAPAN

Dear Satoshi:

Thank you for your letter of November 17. As you well know, I was very sorry to cancel my trip to Japan, but I felt it necessary to stay in Washington due to the budget crisis.

However, I do hope to reschedule my visit to Japan for sometime early next year and will certainly keep in mind your suggestions about the Daitoku-ji Temple and the Osaka-Kansai area.

I look forward to seeing you soon.

Sincerely,

Bill Clinton

I really wanted to visit the High Priest and to see you — & hope it will happen before too long.

SANYO

SANYO Electric Co., Ltd.

5-5, Keihan-Hondori 2-chome,
Moriguchi City, Osaka 570, Japan
TLX: SANYO J63353, J63363
FAX: 06-993-3330, PHONE: 06-991-1181

Satoshi Iue LL. D.
Chairman and Chief Executive Officer

Rec'd 11/28

November 17, 1995

The Honorable Bill Clinton
President of the United States of America
The White House
Washington D.C.
20500-2000

Dear Mr. President:

It was certainly a regret to all of us here in Osaka to miss you at the APEC meetings. However, we do understand the situation your country is facing and how important it is for you to remain in the country to take care of the business.

When the Japanese authority started making preparations for security measures at the Daitoku-ji Temple in Kyoto, I thought that you perhaps have taken my advise and planned for a visit with The High Priest, Daiki Tachibana. I have informed The High Priest about my suggestion to you, and when he learned of your decision not to visit Japan, obviously he was very disappointed. The High Priest patiently awaits for the opportunity to have the honor of meeting and having the acquaintance with you.

I certainly wish that the circumstance would allow you to consider a renewd trip to Japan and especially to Osaka-Kansai area which has made a remarkable change since the last time you visited here back in 1988. In the meantime, I am positive that by the time this letter arrives at your desk, you will have resolved the issue pending before the country with your firm and bold belief in doing that which is right for the country. Please remember that there are friends across the Pacific who are cheering for your victory.

Sincerely,

Satoshi Iue

Satoshi Iue
Chairman & CEO

THE PRESIDENT HAS SEEN
12/5/95

THE WHITE HOUSE

WASHINGTON

95 NOV 29 P4:1: 18

27 November 1995

MEMORANDUM TO THE PRESIDENT

From: Harold Ickes (HI)

Re: Republican campaign poll dated 10 October 1995

Bill Lerach sent me a copy of the attached poll which he describes as a Republican campaign poll done by Bob Dole's pollster.

Send to Bill Selesky

MILBERG WEISS BERSHAD HYNES & LERACH

MELVYN I. WEISS*
WILLIAM S. LERACH
DAVID J. BERSHAD*
PATRICIA M. HYNES*
SOL SCHREIBER*
JEROME M. CONGRESS*
KEITH F. PARK
SHARON LEVINE MIRSKY*
ROBERT P. SUGARMAN*
JOHN E. GRASBERGER
LEONARD B. SIMON
ARNOLD N. BRESSLER*
ALAN SCHULMAN
JAN M. ADLER
MICHAEL C. SPENCER*
ANITA MELEY LAING

ROBERT A. WALLNER*
STEVEN G. SCHULMAN*
BLAKE M. HARPER
SANFORD P. DUMAIN*
PATRICK J. COUGHLIN
GEORGE A. BAUER III*
KEVIN P. RODDY
DENNIS STEWART
BARRY A. WEPRIN*
HELEN J. HODGES
RICHARD H. WEISS*
ERIC A. ISAACSON
ALAN M. MANSFIELD
LEE S. SHALOV*
JOHN J. STOIA, JR.
REED R. KATHREIN

600 WEST BROADWAY
1800 ONE AMERICA PLAZA
SAN DIEGO, CALIFORNIA 92101-3356
(619) 231-1058
FAX: (619) 231-7423

ONE PENNSYLVANIA PLAZA
NEW YORK, NEW YORK 10119-0165
(212) 594-5300
FAX: (212) 868-1229

JEFFREY S. ABRAHAM*
SALLIE A. BLACKMAN
KATHERINE L. BLANCK
TIMOTHY G. BLOOD
JAMES P. BONNER*
JOY ANN BULL
SPENCER A. BURKHOLTZ
JAMES A. CAPUTO
KIRK E. CHAPMAN*
WILLIAM S. DATO
CHERRY-MARIE DESTURA
TRAVIS E. DOWNS, III
ROBERT SCOTT DREHER
KIMBERLY CORNELL EPSTEIN
LORI G. FELDMAN*
KEITH M. FLEISCHMAN*
BRAD N. FRIEDMAN*
WENDY S. GERBOTH
SUSAN S. GONICK
JOHN K. GRANT
SALVATORE J. GRAZIANO*
KERI L. GREENHECK
SHAWN M. HAYS
G. PAUL HOWES
MARY M. HURLEY
ANDREW W. HUTTON
FRANK J. JANECEK
JOHN W. JEFFREY

MITCH H. KALCHEIM*
EDITH M. KALLAS*
NANCY G. KENDALL
REGINA L. LaPOLLA*
PETER A. LENNON*
JEFFREY D. LIGHT
SHARON T. MAIER
CARL J. MAYER*
C. BENJAMIN NUTLEY
PAMELA M. PARKER
STEVEN W. PEPICH
DIANE PHILLIPS*
THEODORE J. PINTAR
JANINE L. POLLACK*
SHERI PYM
DARREN J. ROBBINS
HENRY ROSEN
STEPHEN H. SCHWARTZ*
MARK SOLOMON
RALPH M. STONE*
AARON W. TANDY*
ALISON M. TATTERSALL
JOSHUA H. VINIK*
ERIN C. WARD
RANDI D. WEINBERGER
DEBORAH CLARK-WEINTRAUB*
JEFF S. WESTERMAN
PAUL D. YOUNG*

OF COUNSEL
JARED SPECTHRIE
RICHARD M. MEYER*

LAWRENCE MILBERG (1913-1989)

*ADMITTED IN NY

November 3, 1995

FEDERAL EXPRESS

Harold Ickes, Assistant to the
President and Deputy Chief of Staff
THE WHITE HOUSE
First Floor, West Wing
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Harold:

I recently got a copy of a Republican campaign poll, done by Bob Dole's pollster, which is a very detailed study of the current mood of the electorate. You will see on the last page the conclusion is that -- absent a recession -- which currently appears remote -- President Clinton gets re-elected. In case you did not see this, I thought that you would enjoy looking at this poll.

Very truly yours,

Bill

WILLIAM S. LERACH

WSL:kl
Enclosure

Presentation to 3M



October 10, 1995

Presented by:

W.D. McInturff, Partner

703-836-7655

PREVIEW POINTS

- ✓ Few precedents for such an unstable/restive electorate. Polling figures are volatile as electorate churns through issues and debate.

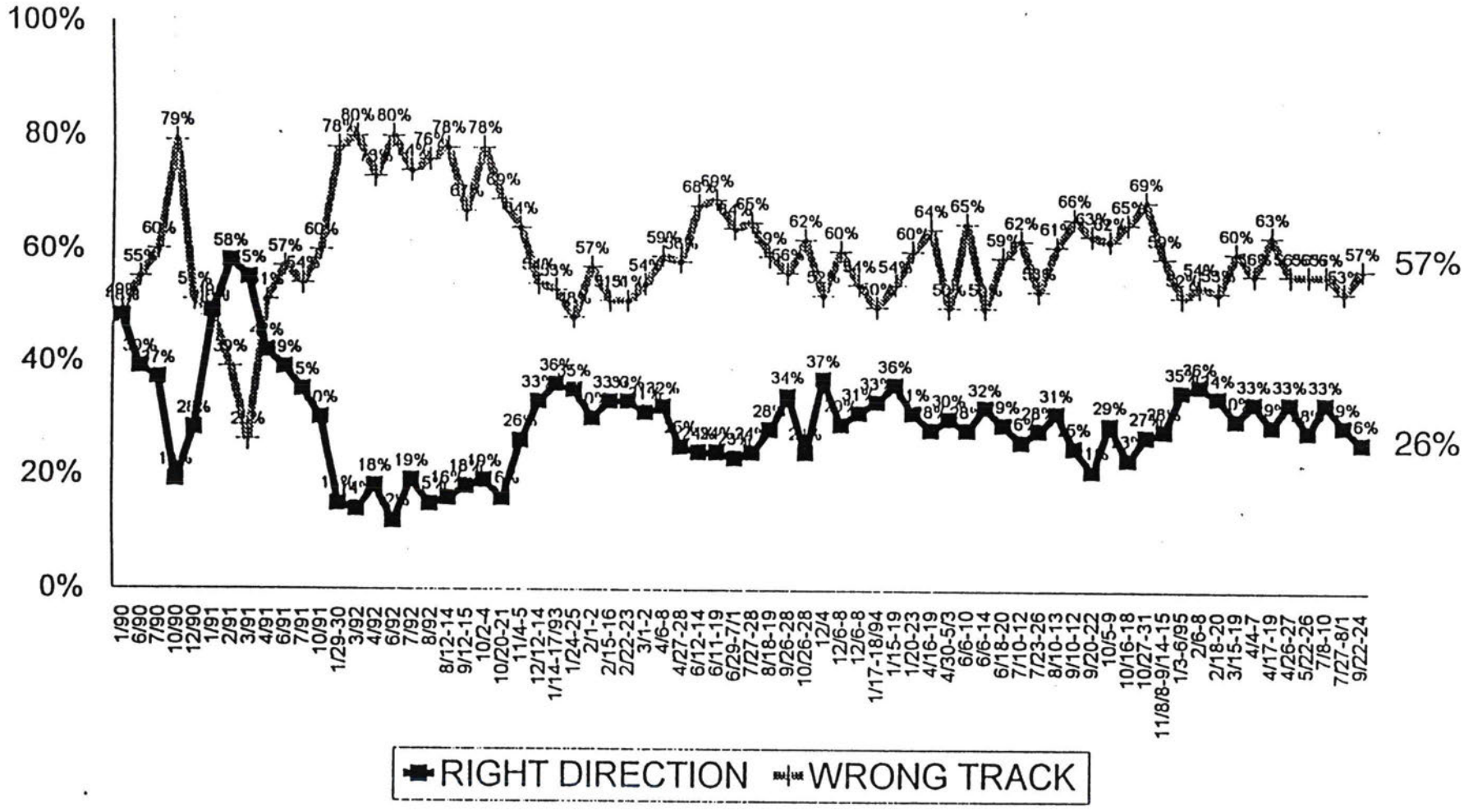
- ✓ GOP "hanging tough" despite tackling difficult issues and taking tough Democrat hits.

- ✓ Democrats are still hurting. They have not recovered from last November's election.

- ✓ Congress ***still*** needs to be changed — it's not just the budget, it's the institution. Campaign reform, lobbying reform and freezing congressional salaries would go a long way in convincing voters Congress has changed. Support for term limits has not subsided.

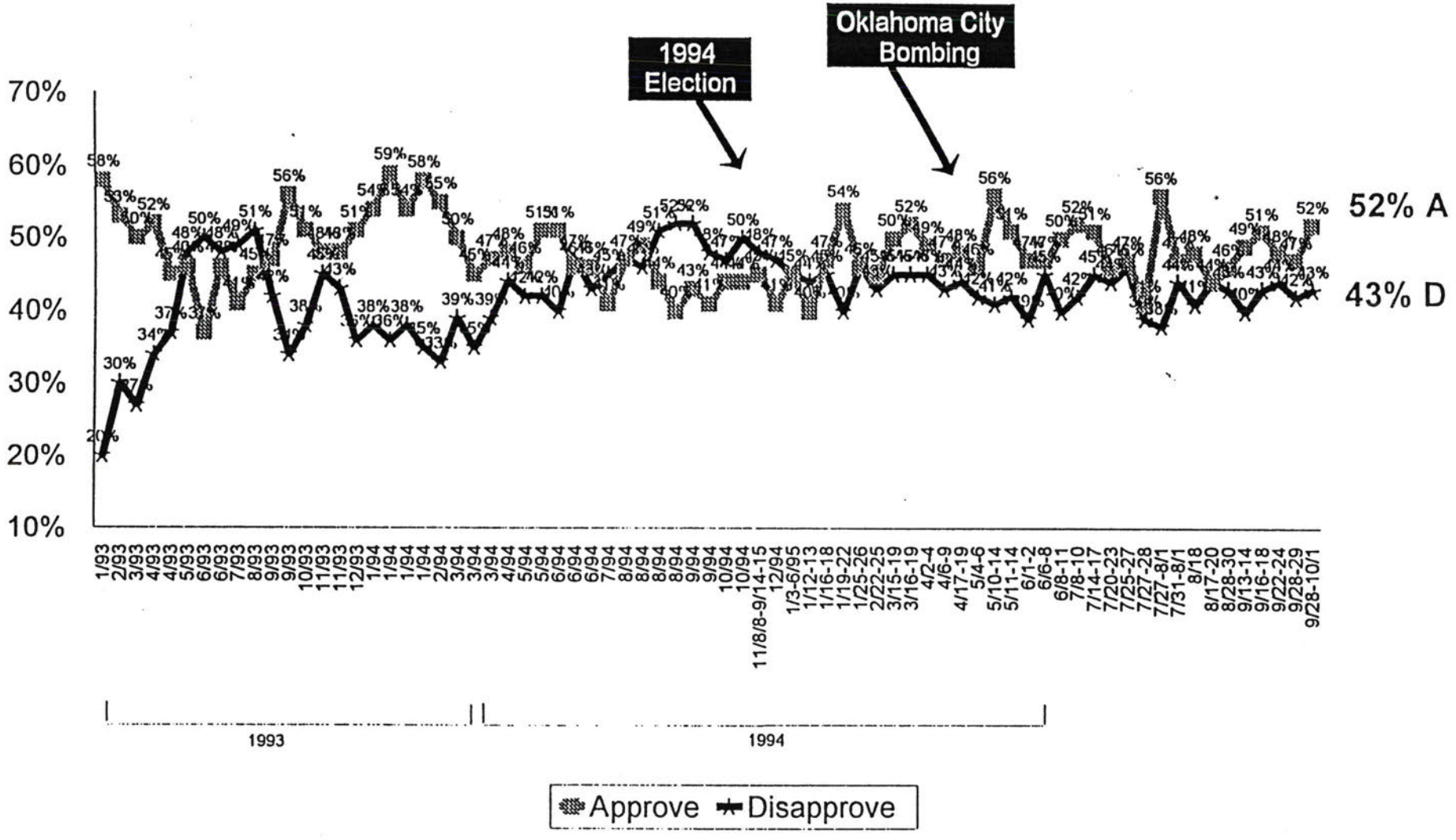
RIGHT DIRECTION/WRONG TRACK

National Trend



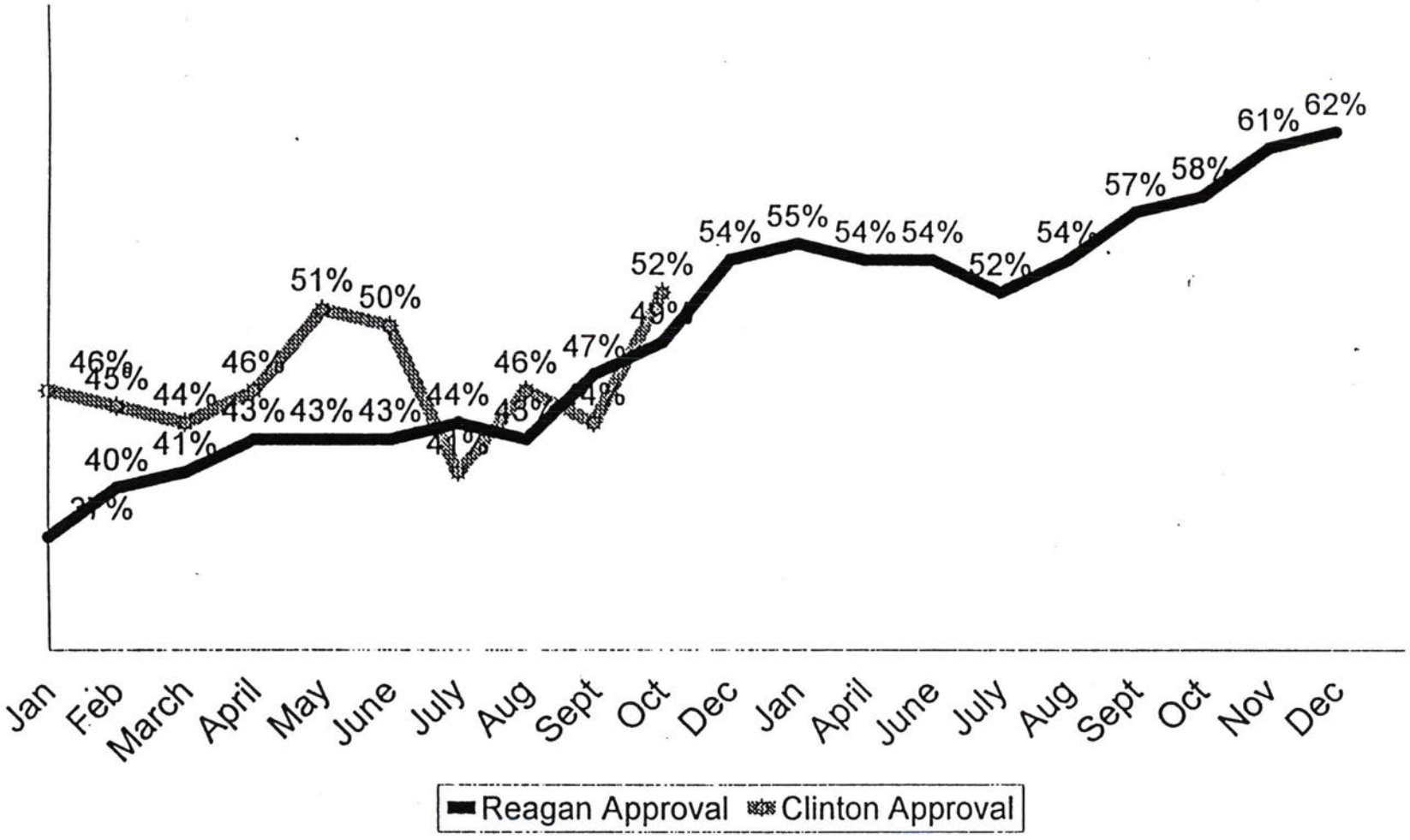
PUBLIC AND POS SURVEYS

CLINTON JOB APPROVAL
Trend Over Time



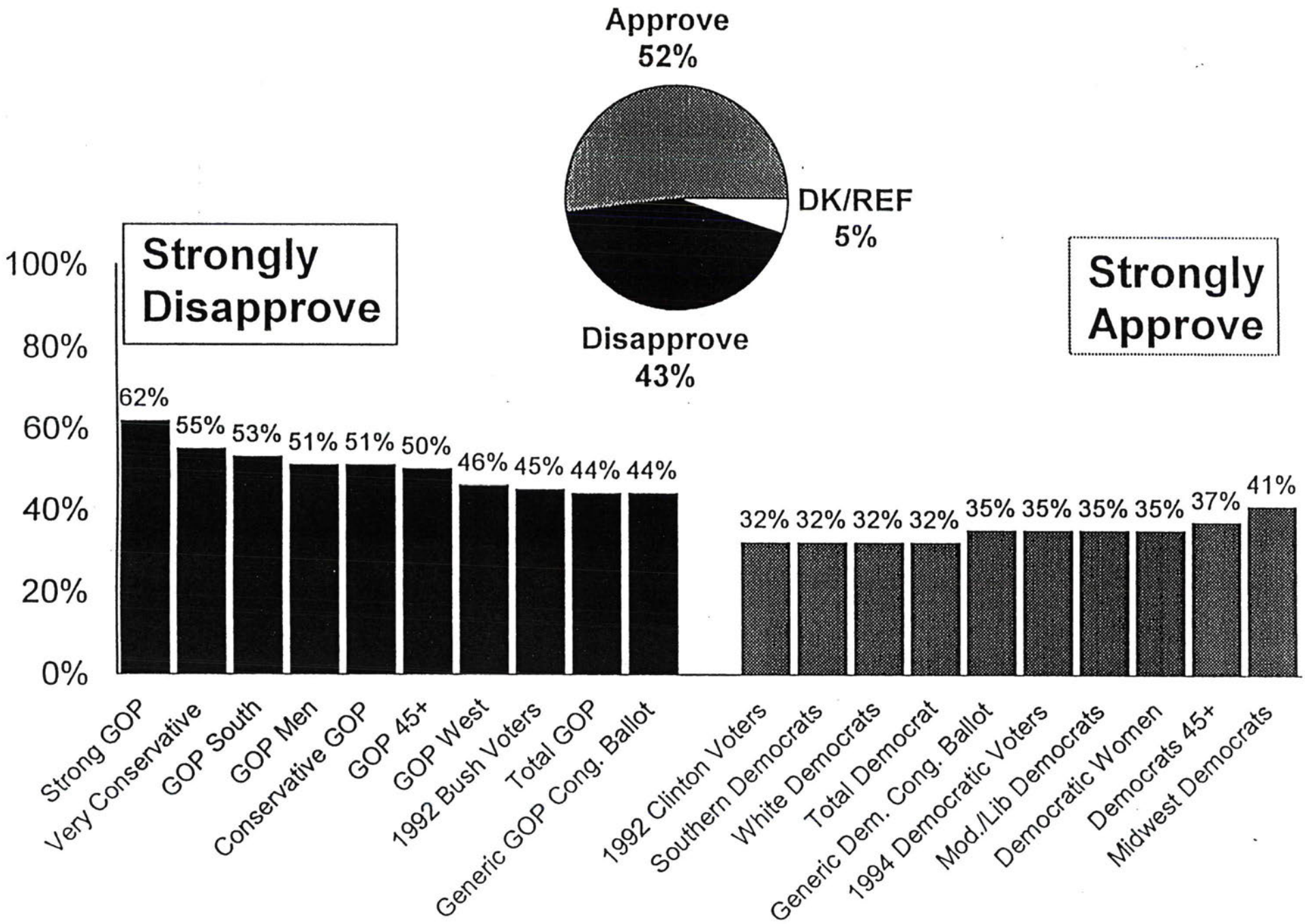
SOURCE: Public Opinion Strategies/
Various Polling Organizations

1983-1984 REAGAN JOB APPROVAL VS. 1995-1996 CLINTON JOB APPROVAL



PUBLIC OPINION STRATEGIES

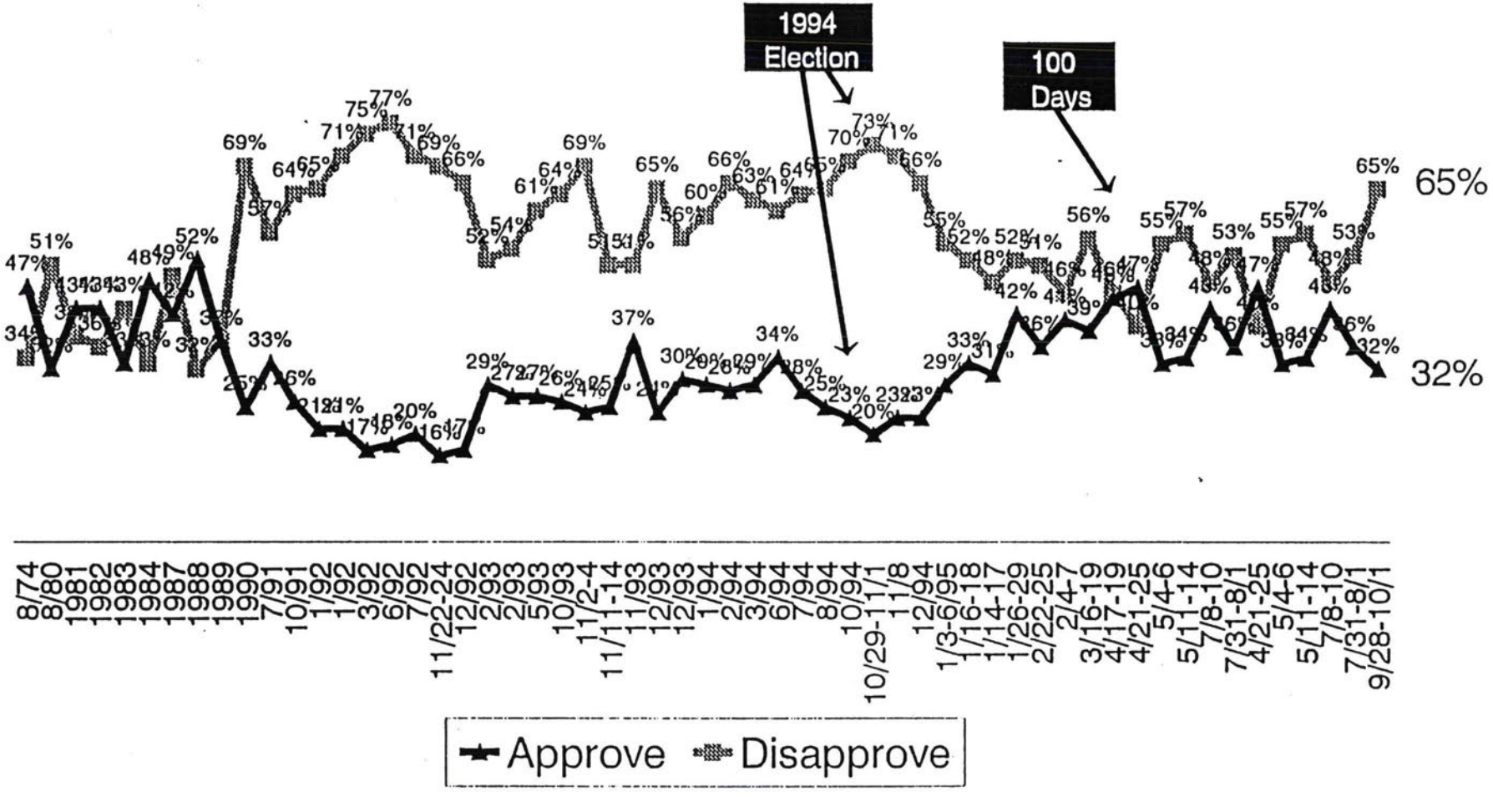
Clinton Intensity: Disapproval / Approval



Clinton Re-elect / New Person

	All Voters	*Bush '92 States*	*Clinton '92 States*
Re-Elect	39%	38%	40%
New Person	53%	57%	52%
Definitely Re-Elect	23%	25%	22%
Definitely New Person	42%	49%	39%

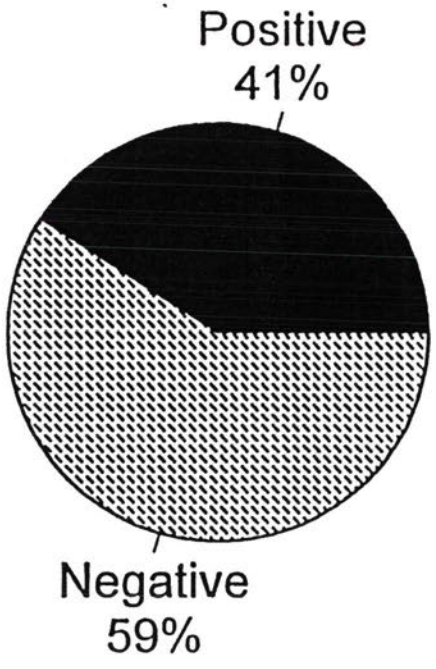
CONGRESSIONAL JOB RATING
1974-1995



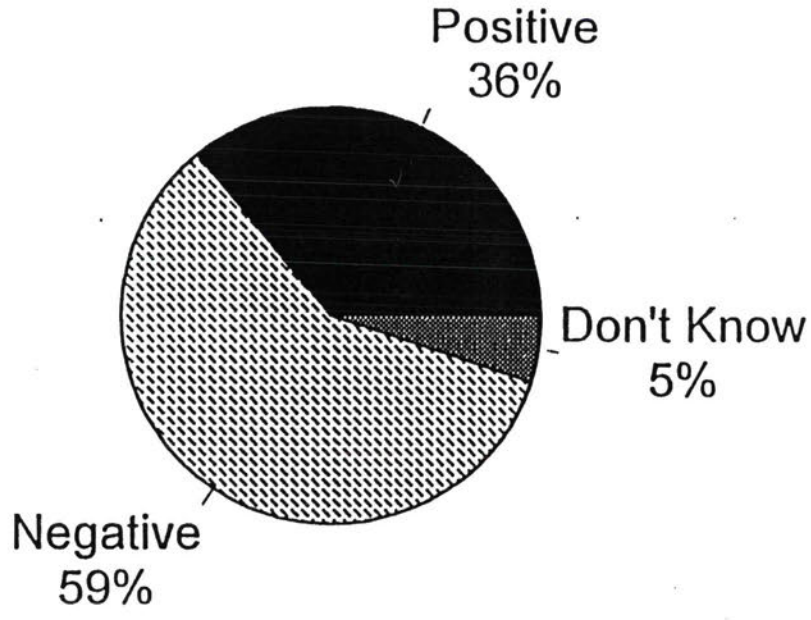
Source: Public Opinion Strategies/
Various Polling Firms

Job Rating

Clinton

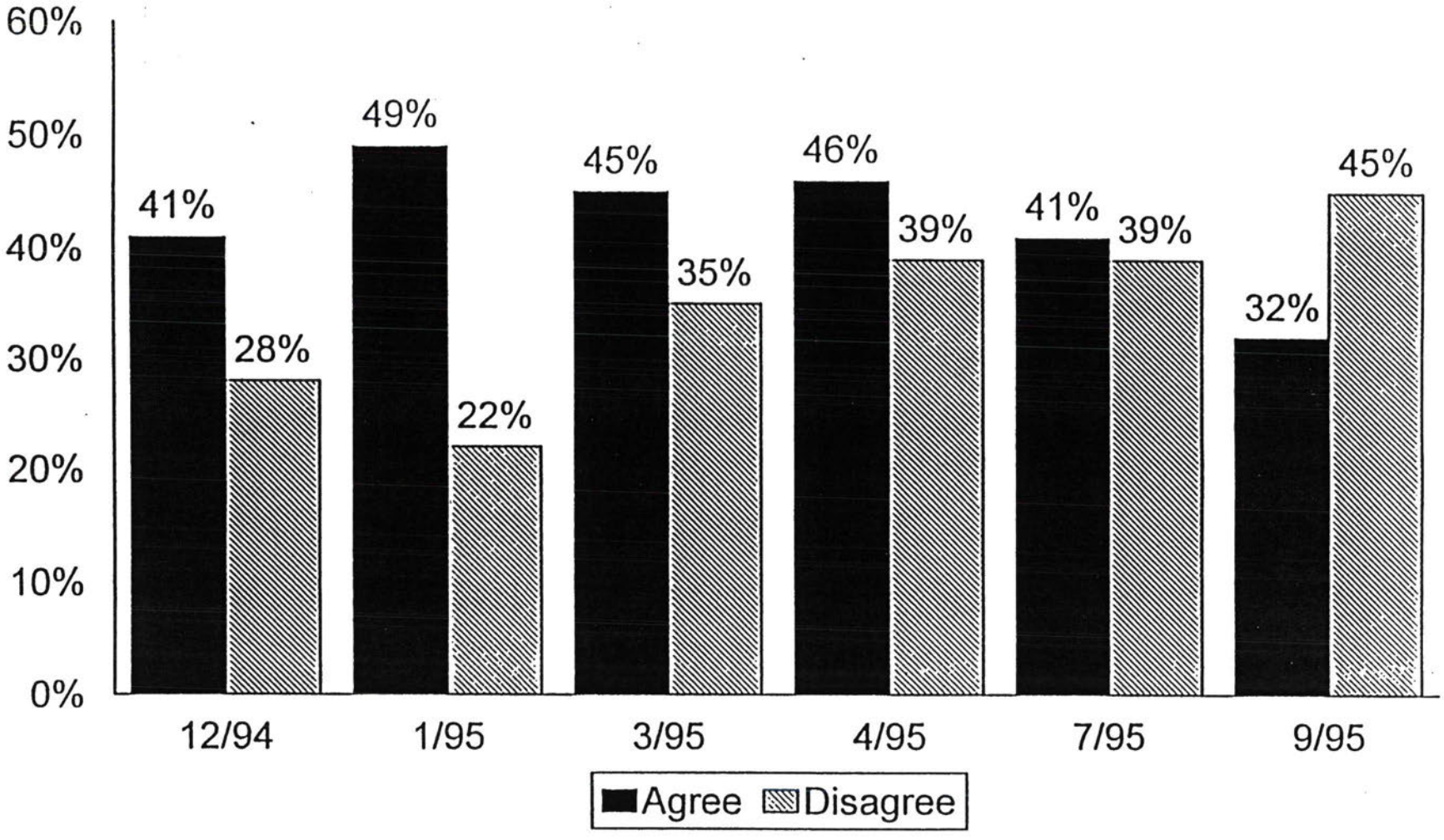


GOP Congress



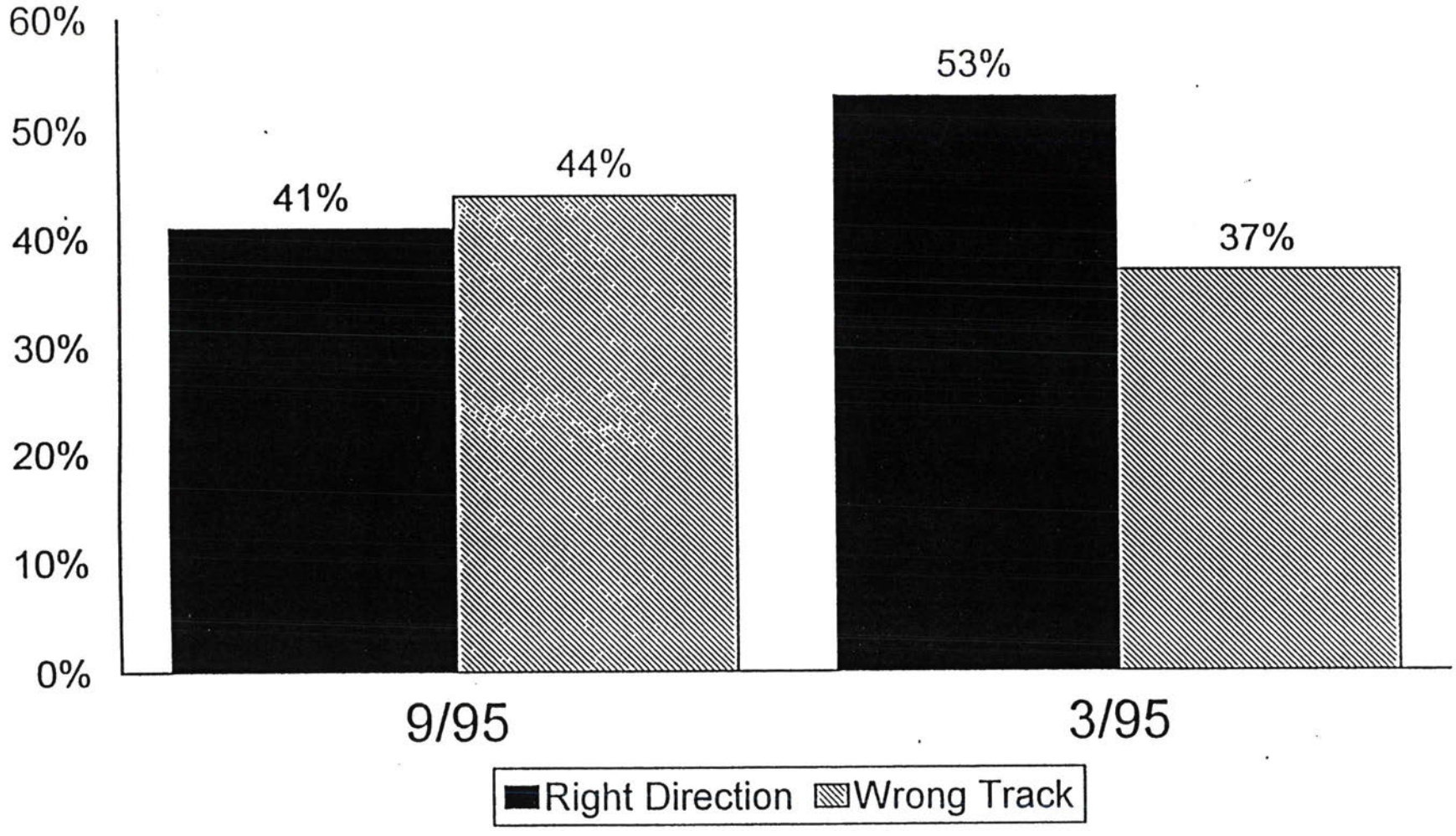
Hart and Teeter
September 16-19, 1995
N=1005 Adults

From what you know, do you agree or disagree with most of what the Republicans in Congress are proposing?



Hart and Teeter
Various Surveys

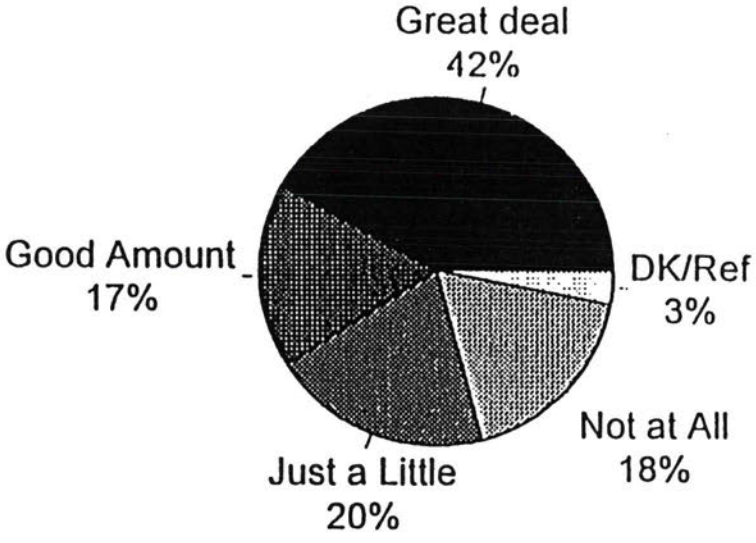
Republican proposals in Congress would move country in the...



CNN/USA/GALLUP
Various Surveys

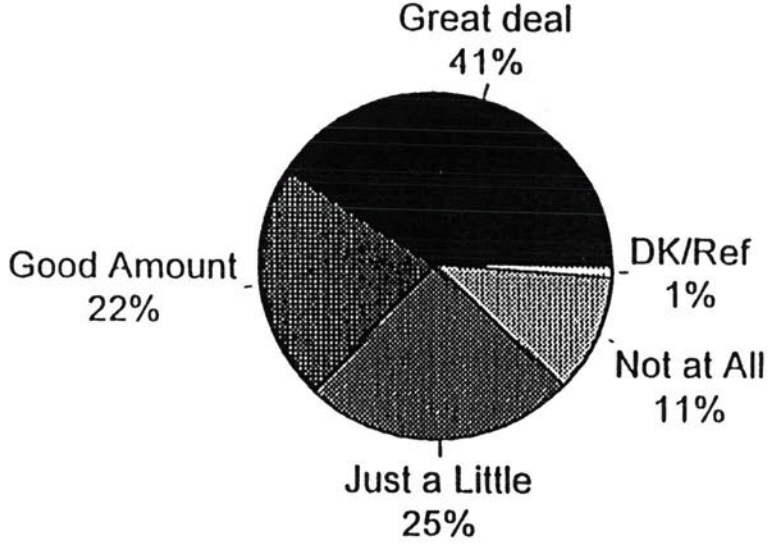
How concerned are you that . . .

The Republicans will go too far in helping the rich and cut needed government services that benefit people who aren't wealthy.



Great deal/ Good amount	59%
A little / Not at all	39%

The Democrats will go too far in keeping costly government services that are wasteful and out-of-date.

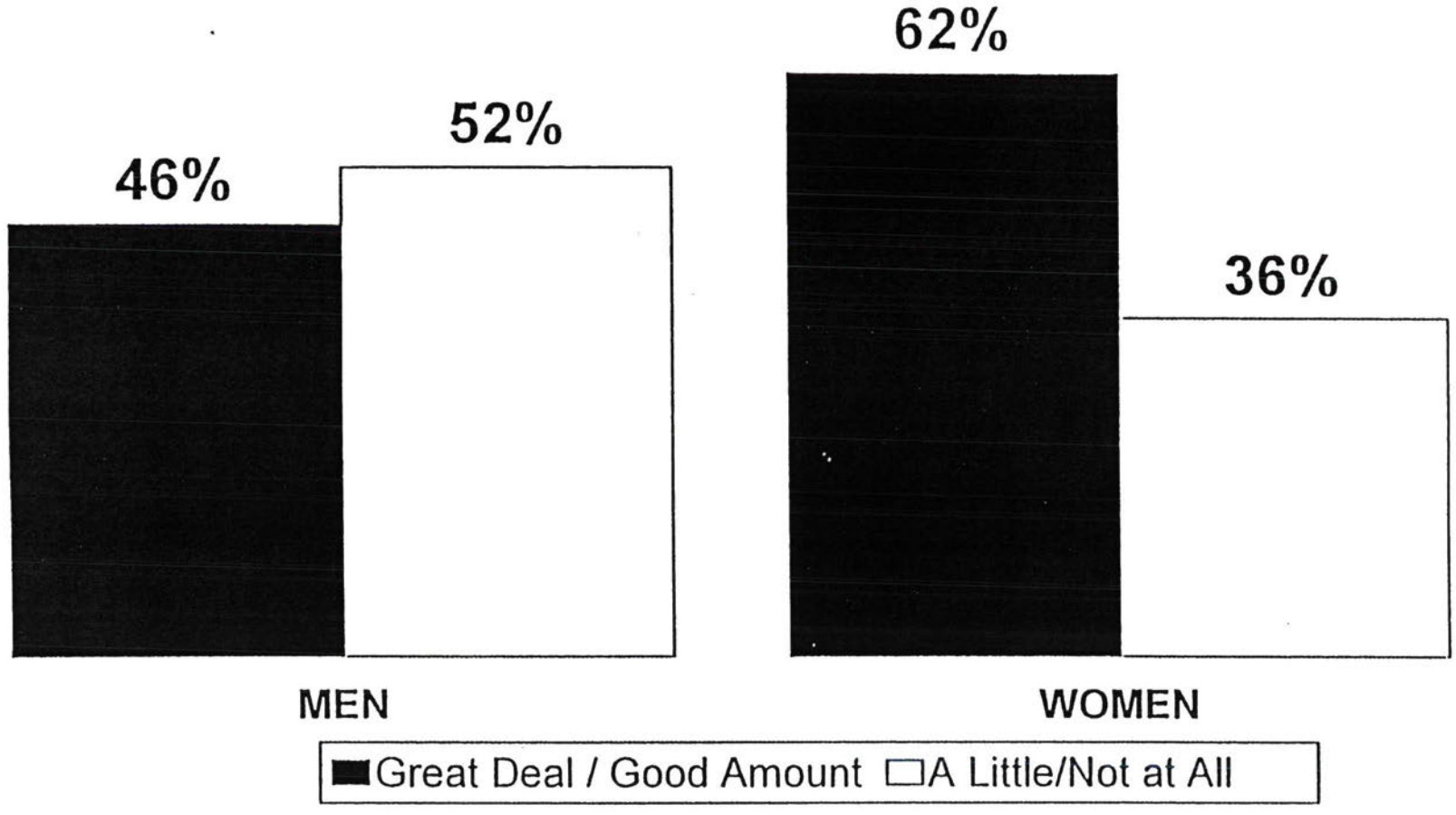


Great deal / Good amount	63%
A little / Not at all	36%

PUBLIC OPINION STRATEGIES
POS July National N = 800 Registered Voters
July 8 - 10, 1995

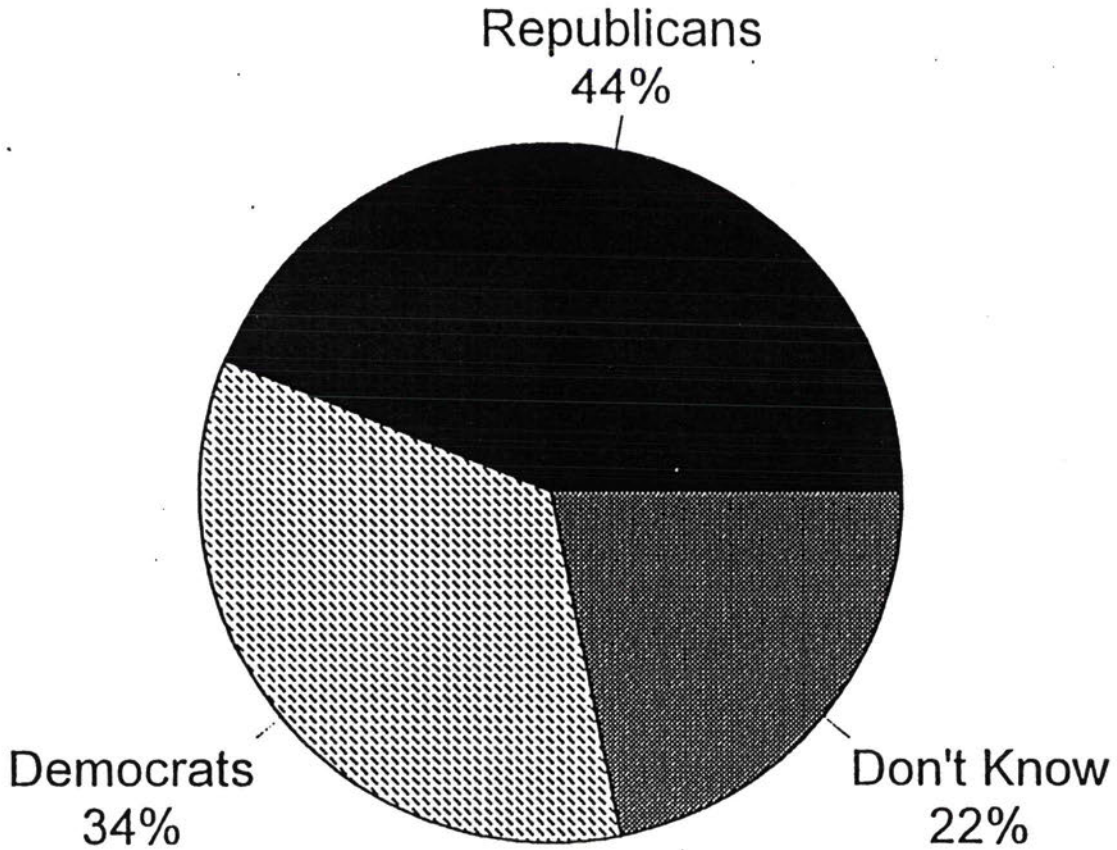
Concern the Republican Party Will Go Too Far

Among White, Registered Voters



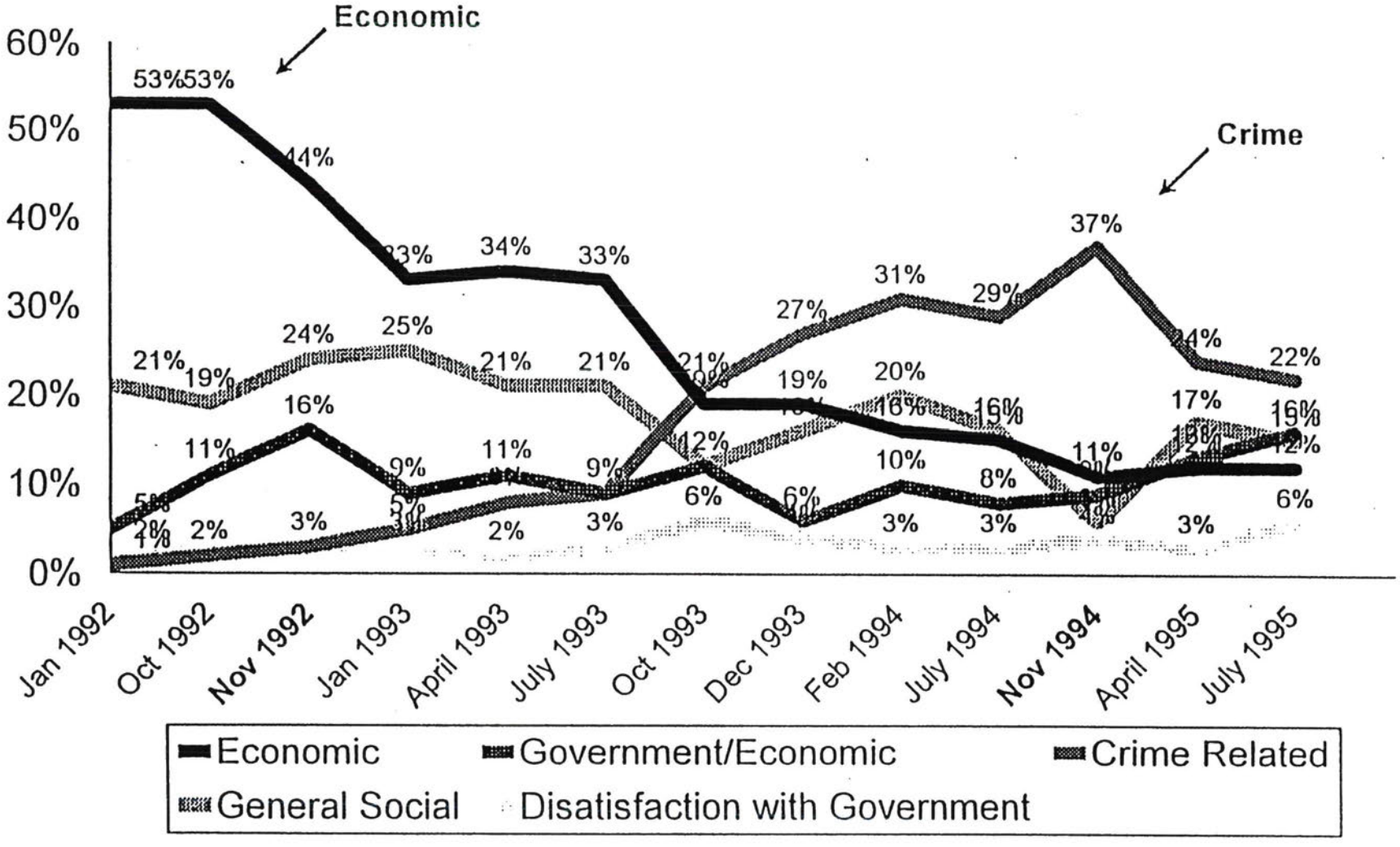
PUBLIC OPINION STRATEGIES
POS July National N = 800 Registered Voters
July 8 - 10, 1995

Who would you rather see control the Hill after 1996?



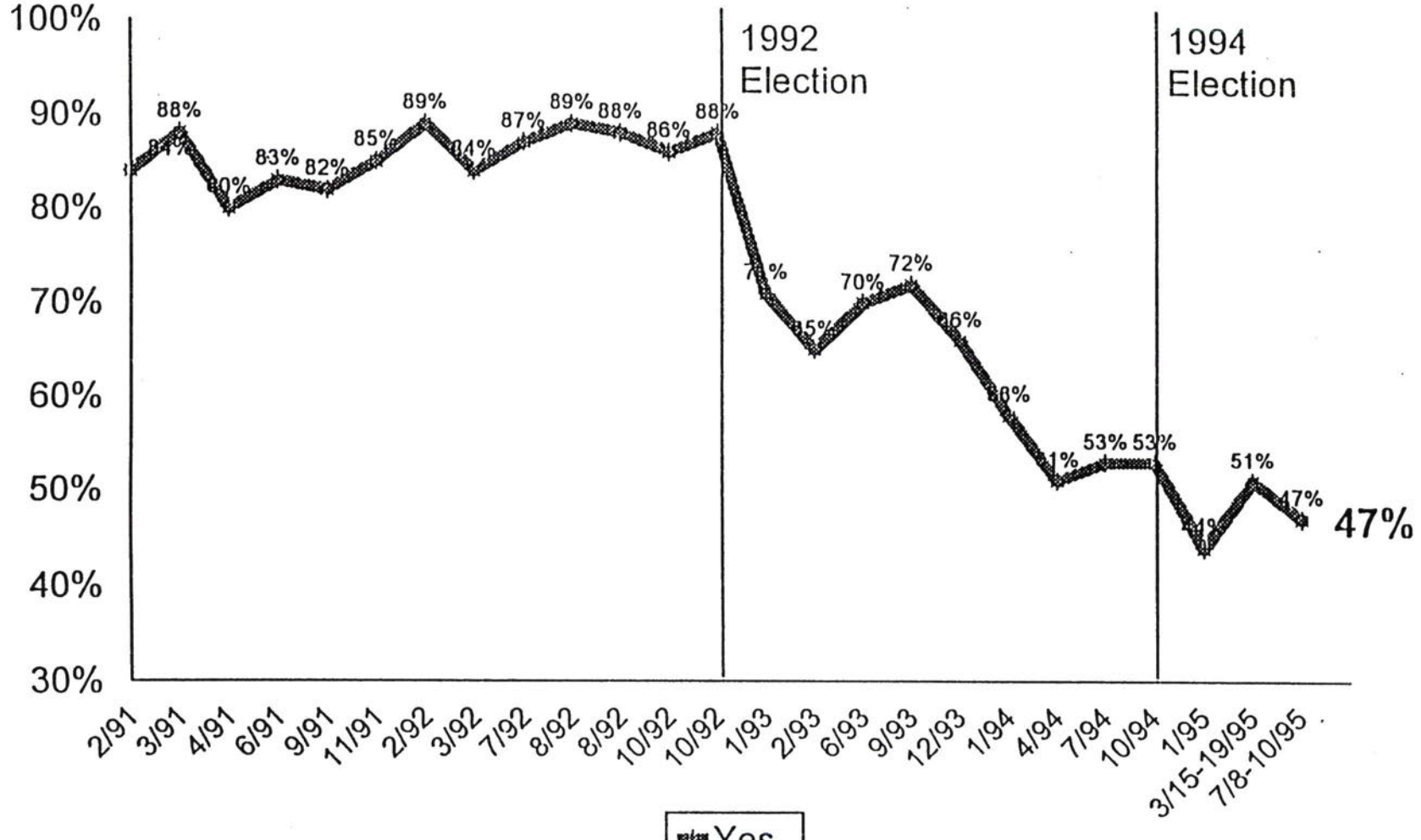
Hart and Teeler
September 16-19, 1995
N=1005 Adults

Most Important Problem Trend Data



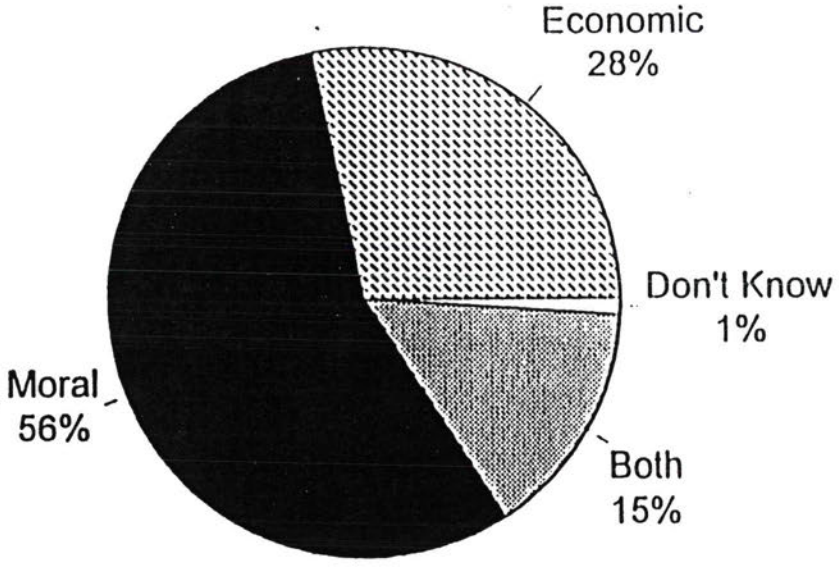
PUBLIC OPINION STRATEGIES
Various Surveys

Do you think we are in an economic recession or not?

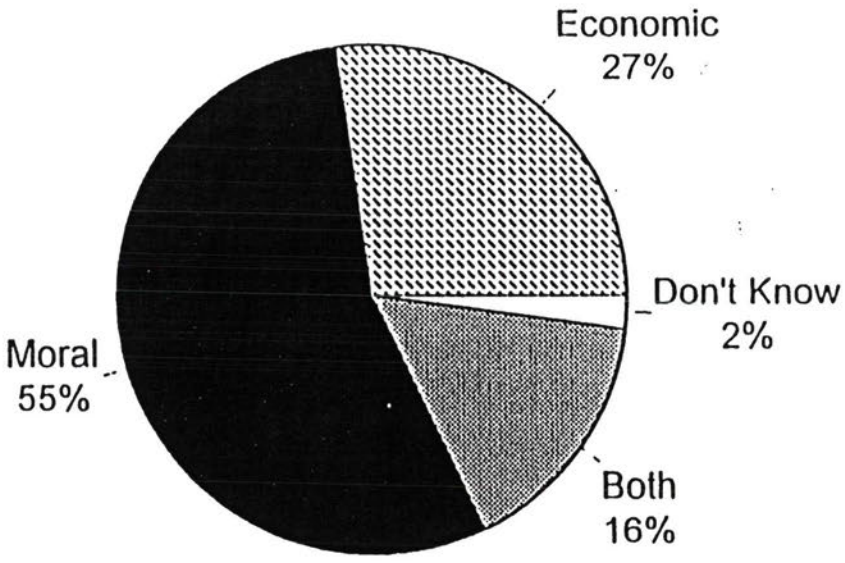


Public Opinion Strategies
National Survey
July 8-10, 1995
N=800

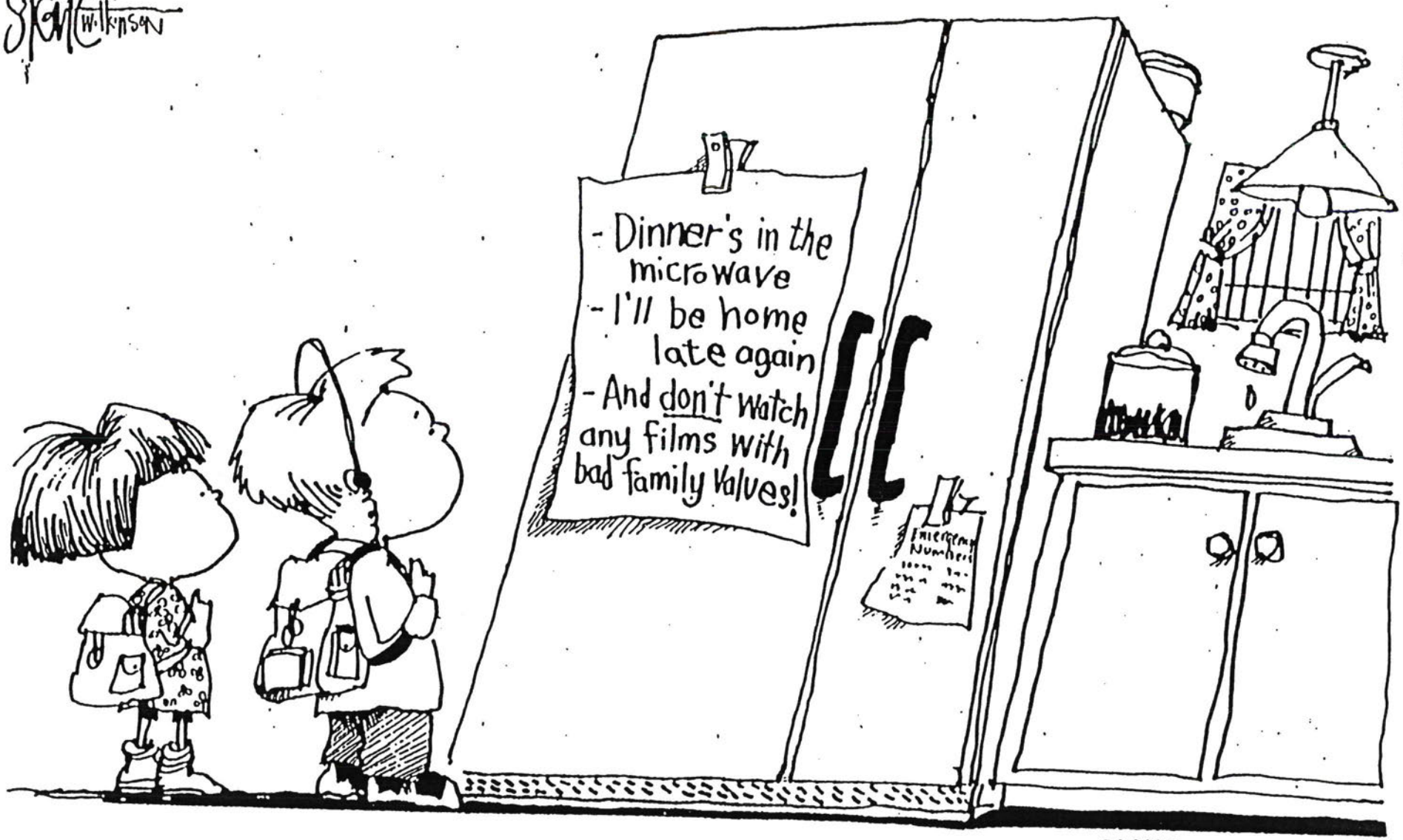
Would you say that at the current time, the country is facing more of an economic crisis or a moral crisis?



April 17-19



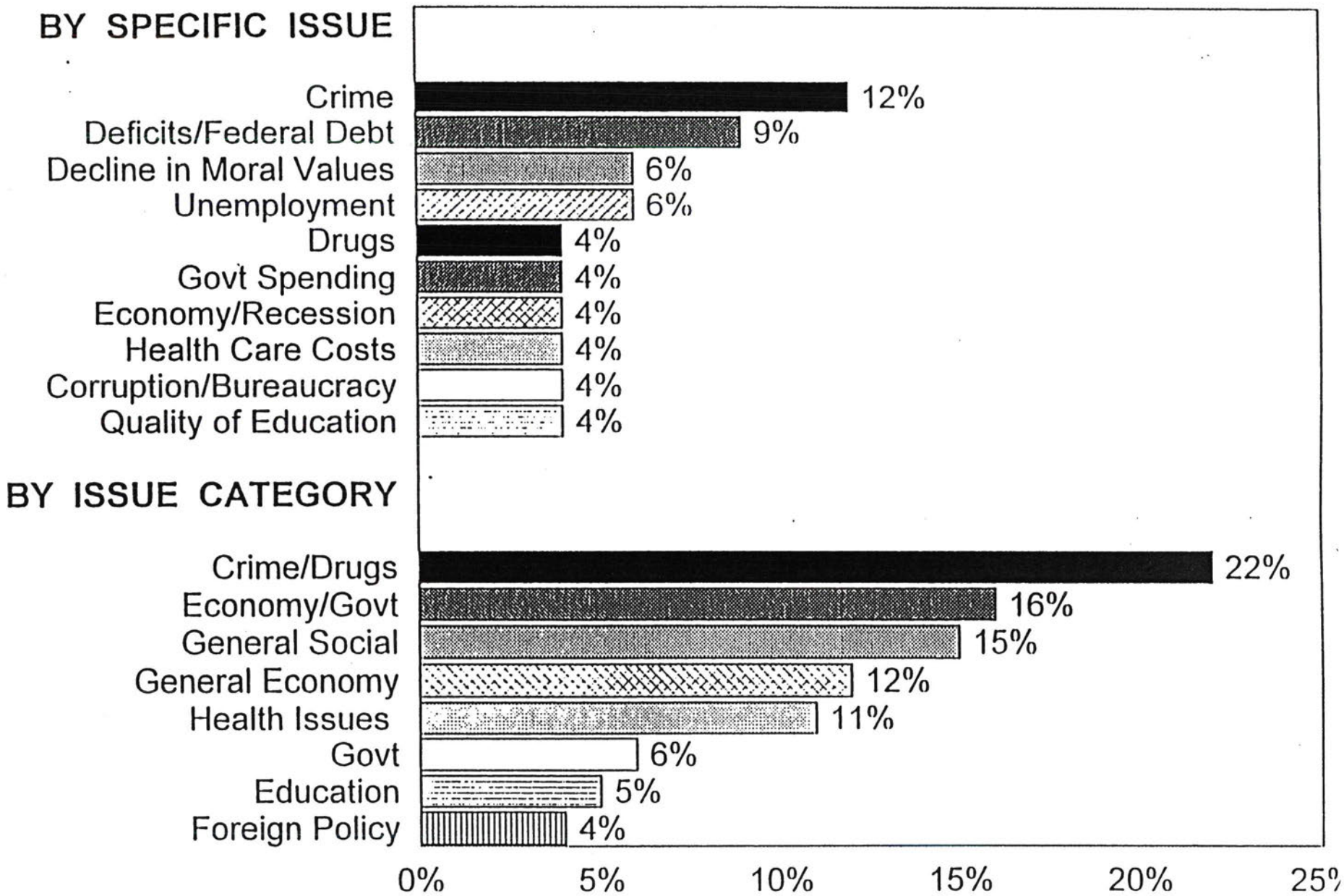
July 8-10



SIGNE
PHILADELPHIA DAILY NEWS

Cartoonists & Writers Syndicate

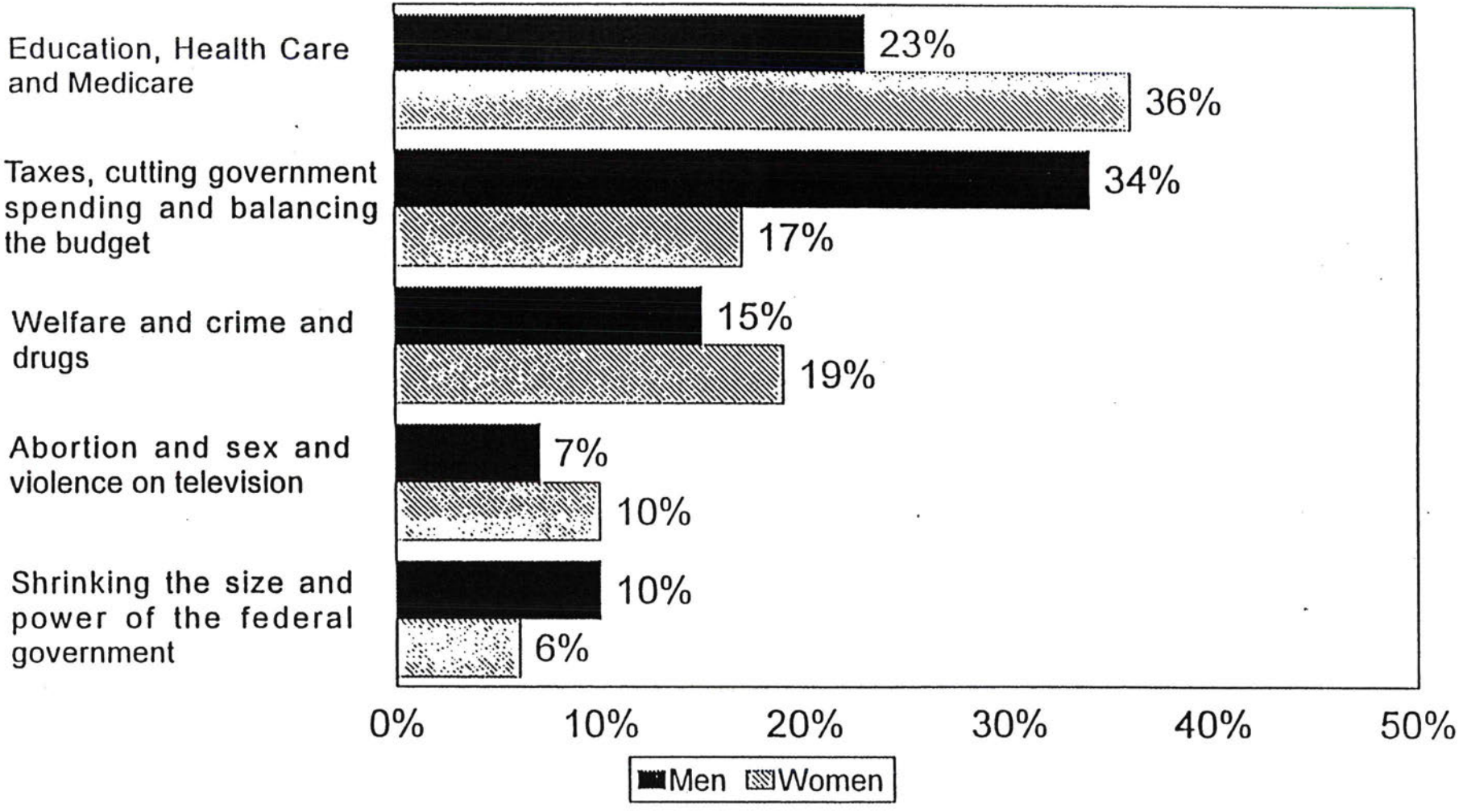
Most Important Problem Facing Country



PUBLIC OPINION STRATEGIES
POS July National N=800 Registered Voters
July 8-10

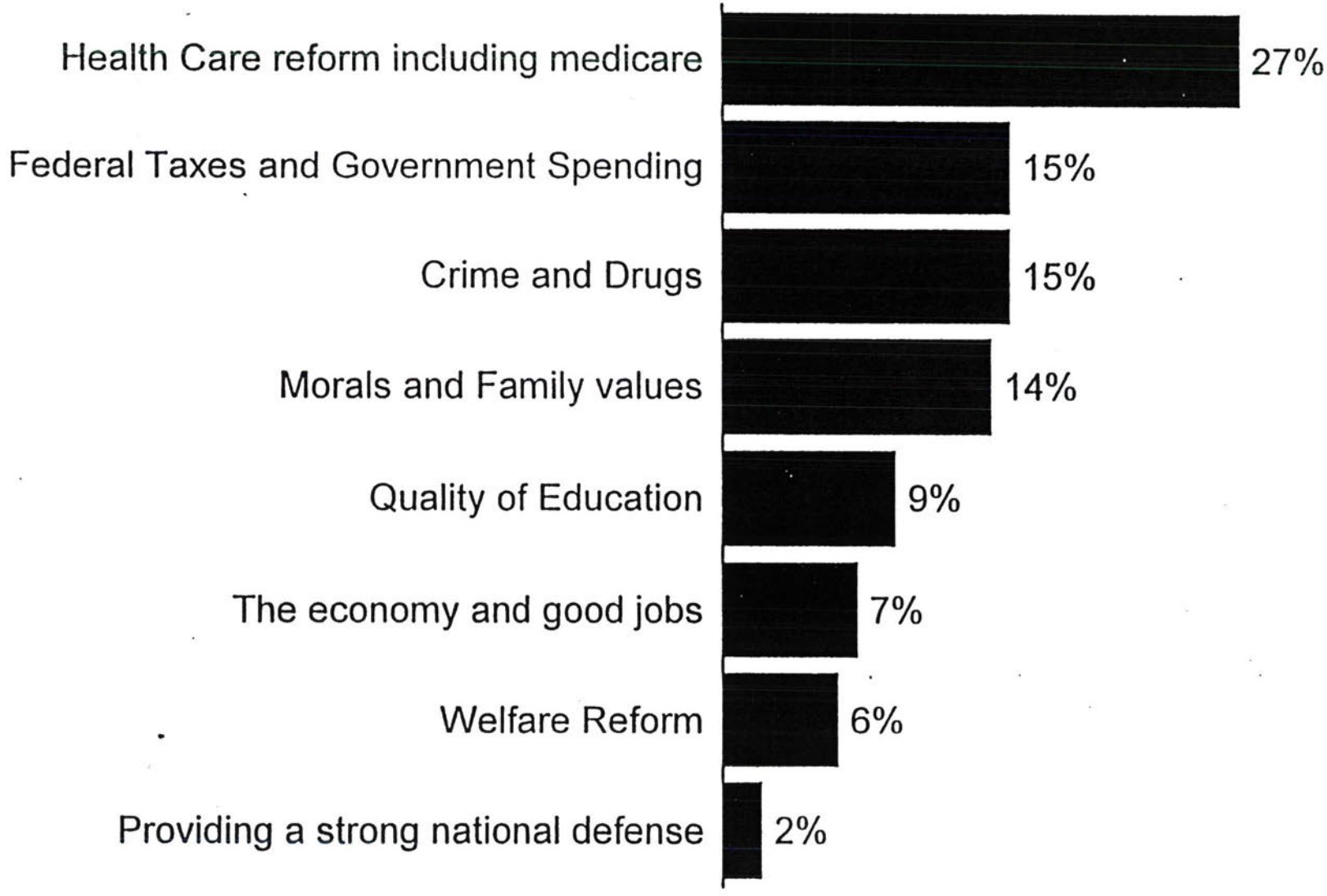
When making up your mind about voting for a candidate, would it be more important to you that a candidate agree with your position on issues like:

(By Gender)

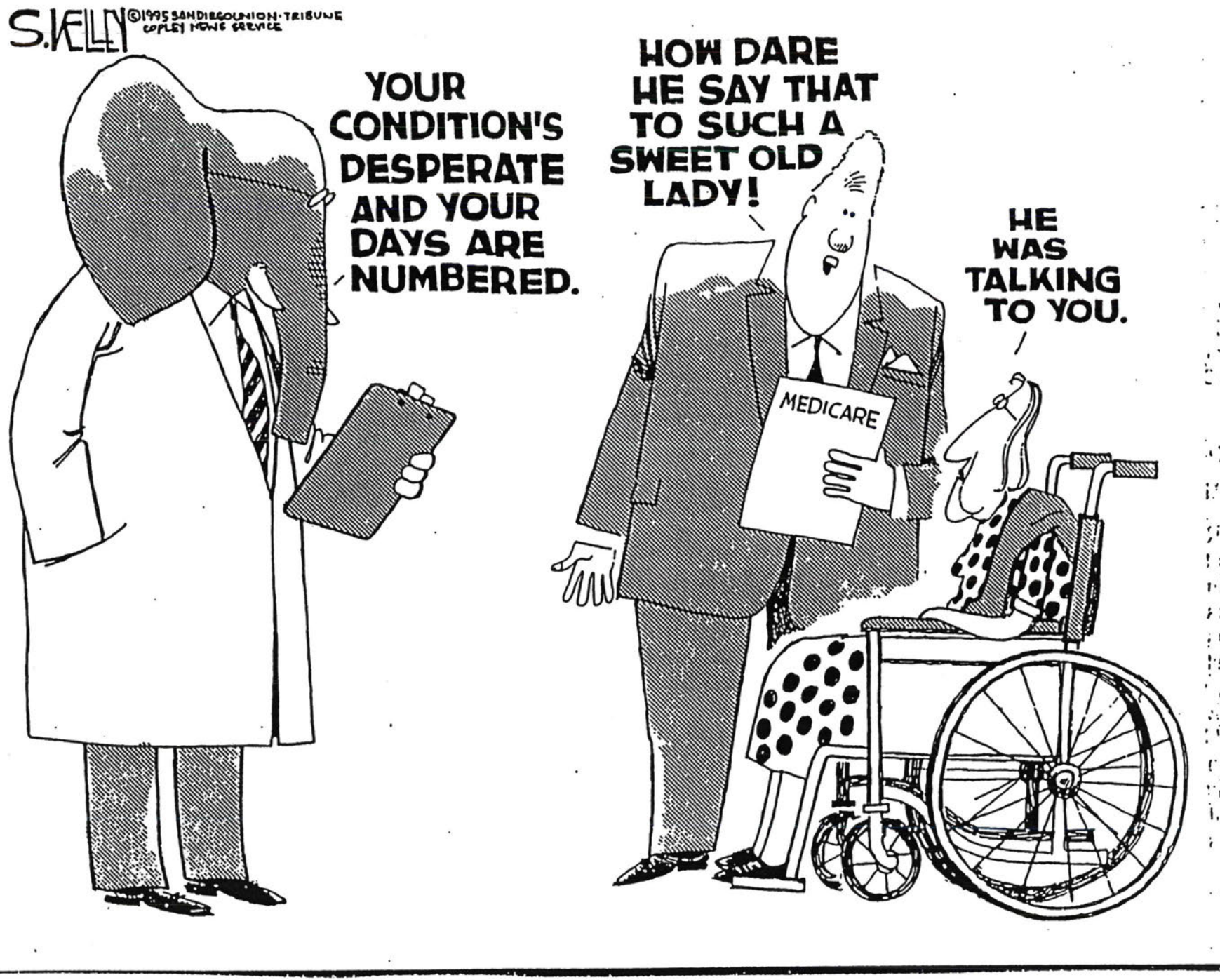


PUBLIC OPINION STRATEGIES
July 8-10, 1995 National, N=800 Registered Voters

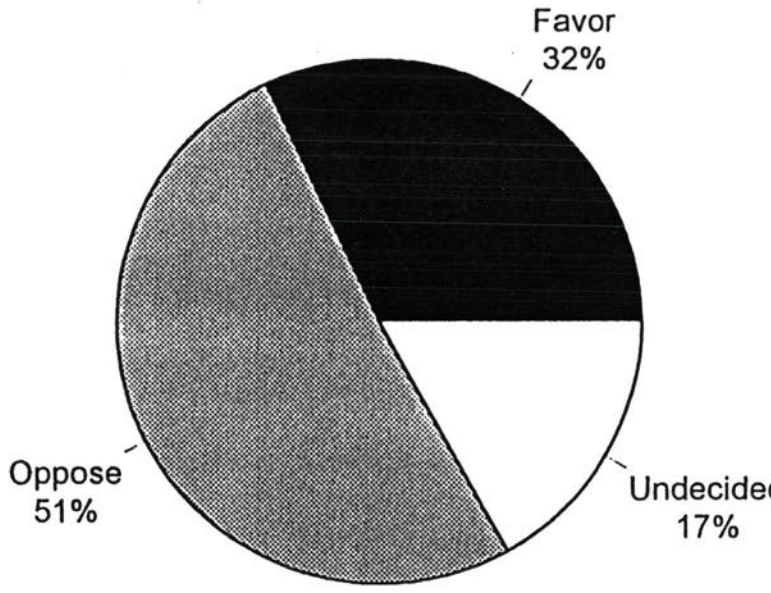
Which problem do you worry most about?



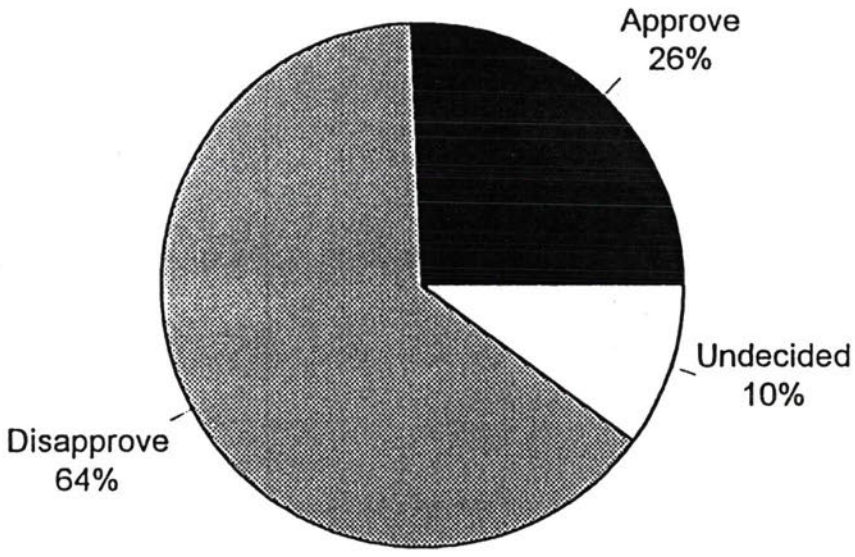
Hart and Teeter
September 16-19, 1995
N=1005 Adults


S.KELLY
©1995 SANDIEGOUNION-TRIBUNE
COPLEY NEWS SERVICE
YOUR CONDITION'S DESPERATE AND YOUR DAYS ARE NUMBERED.
HOW DARE HE SAY THAT TO SUCH A SWEET OLD LADY!
MEDICARE
HE WAS TALKING TO YOU.

Republican Plan to Change Medicare



9/95*

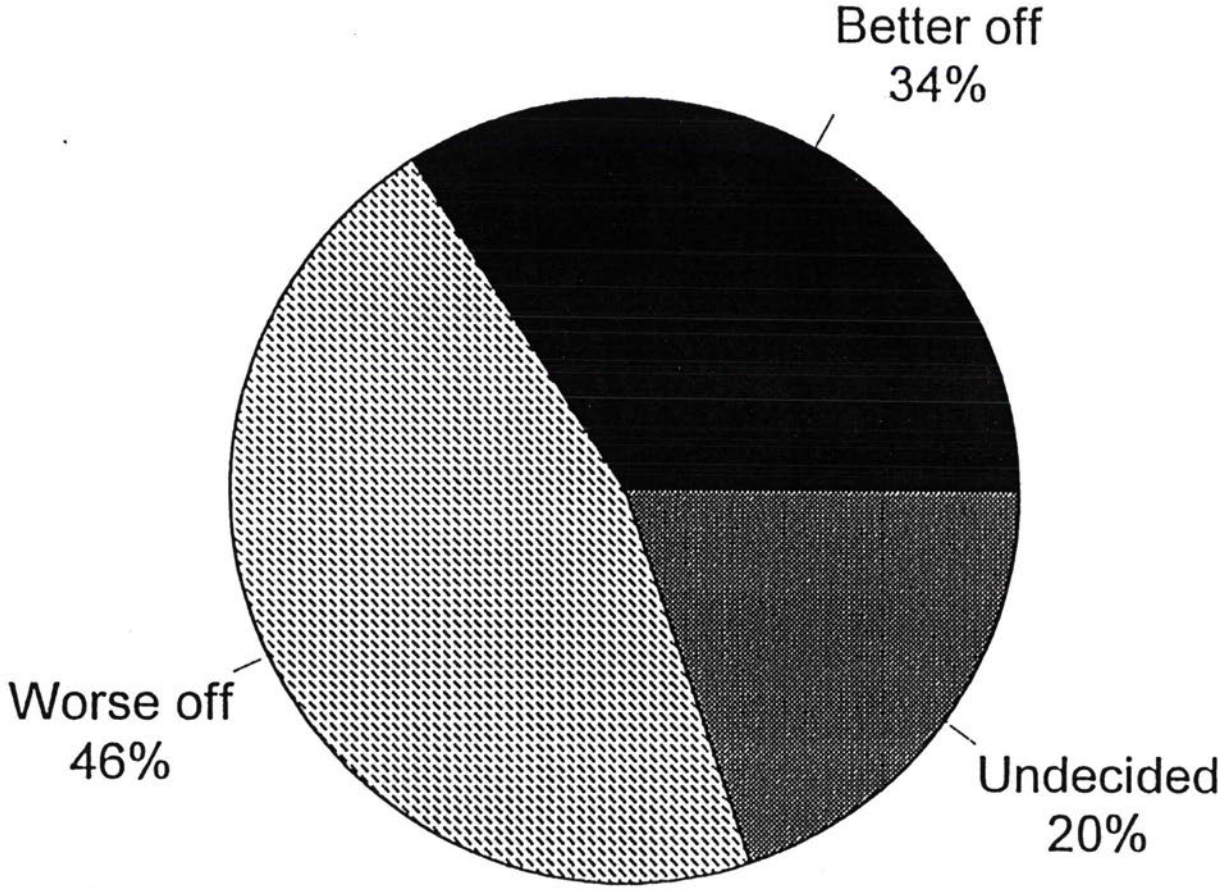


10/95

***Question was on Republican Medicare Plan, word 'change' not mentioned**

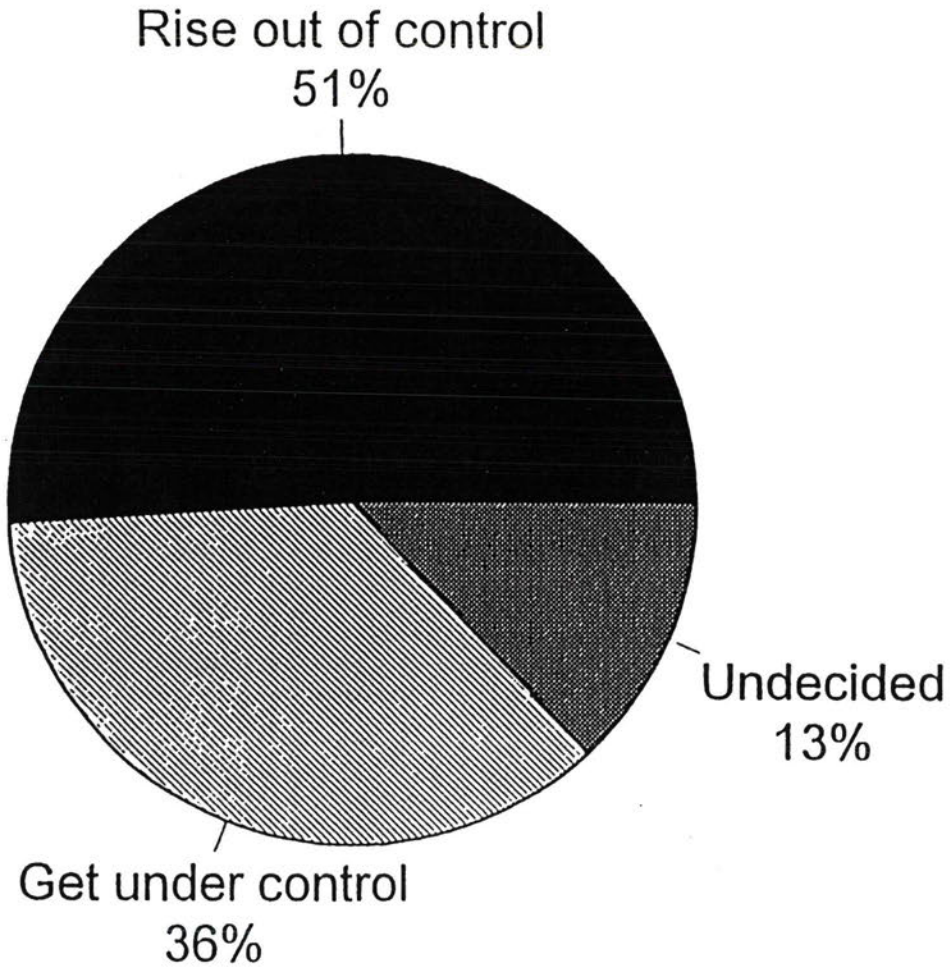
Various Surveys

Under Republican Medicare Plan, U.S. will be...



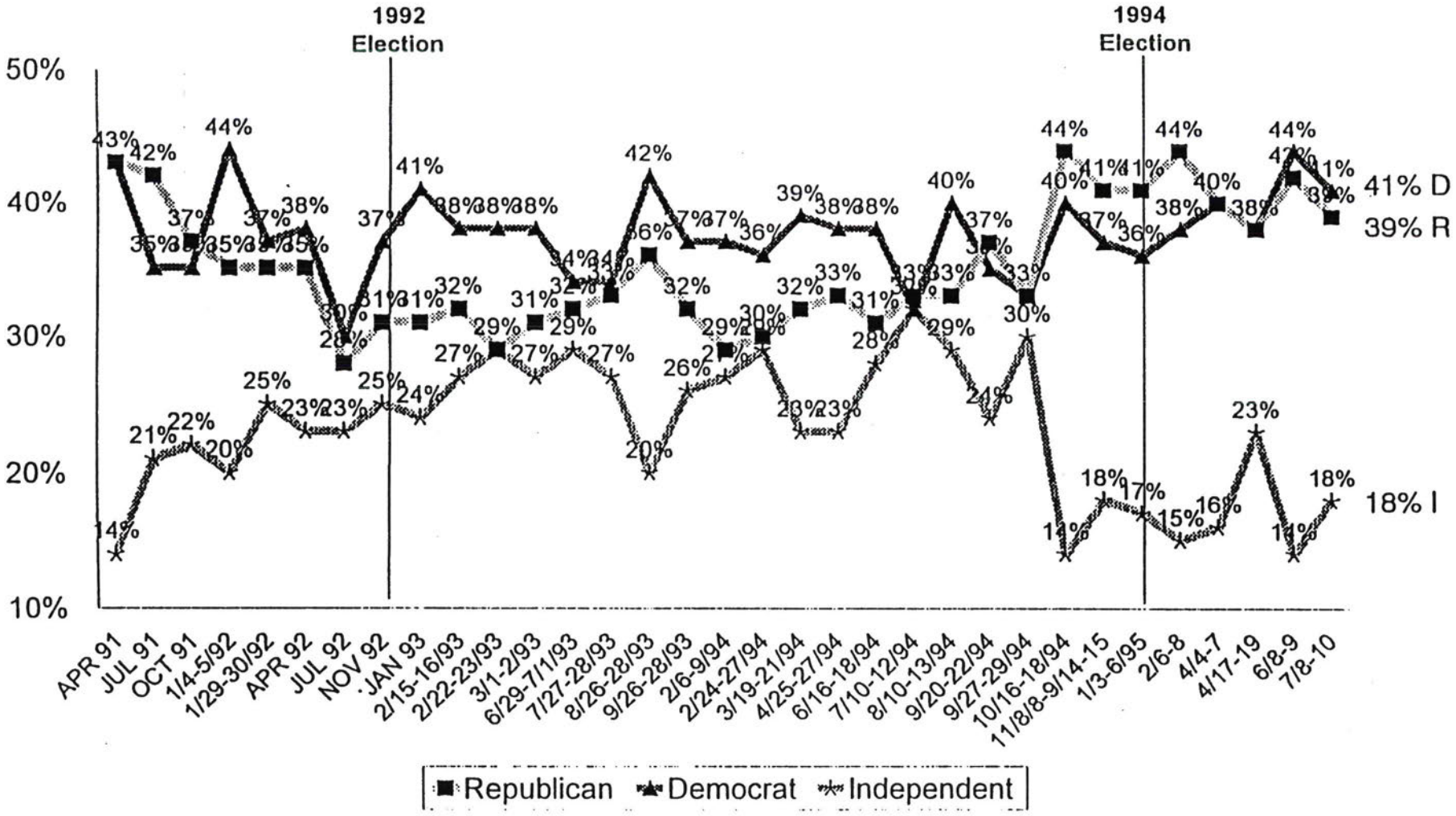
CNN/USA/GALLUP
September 22-24, 1995
N=1011 Adults

Under Republican Plan, Medicare costs will...



CNN/USA/GALLUP
September 22-24, 1995
N=1011 Adults

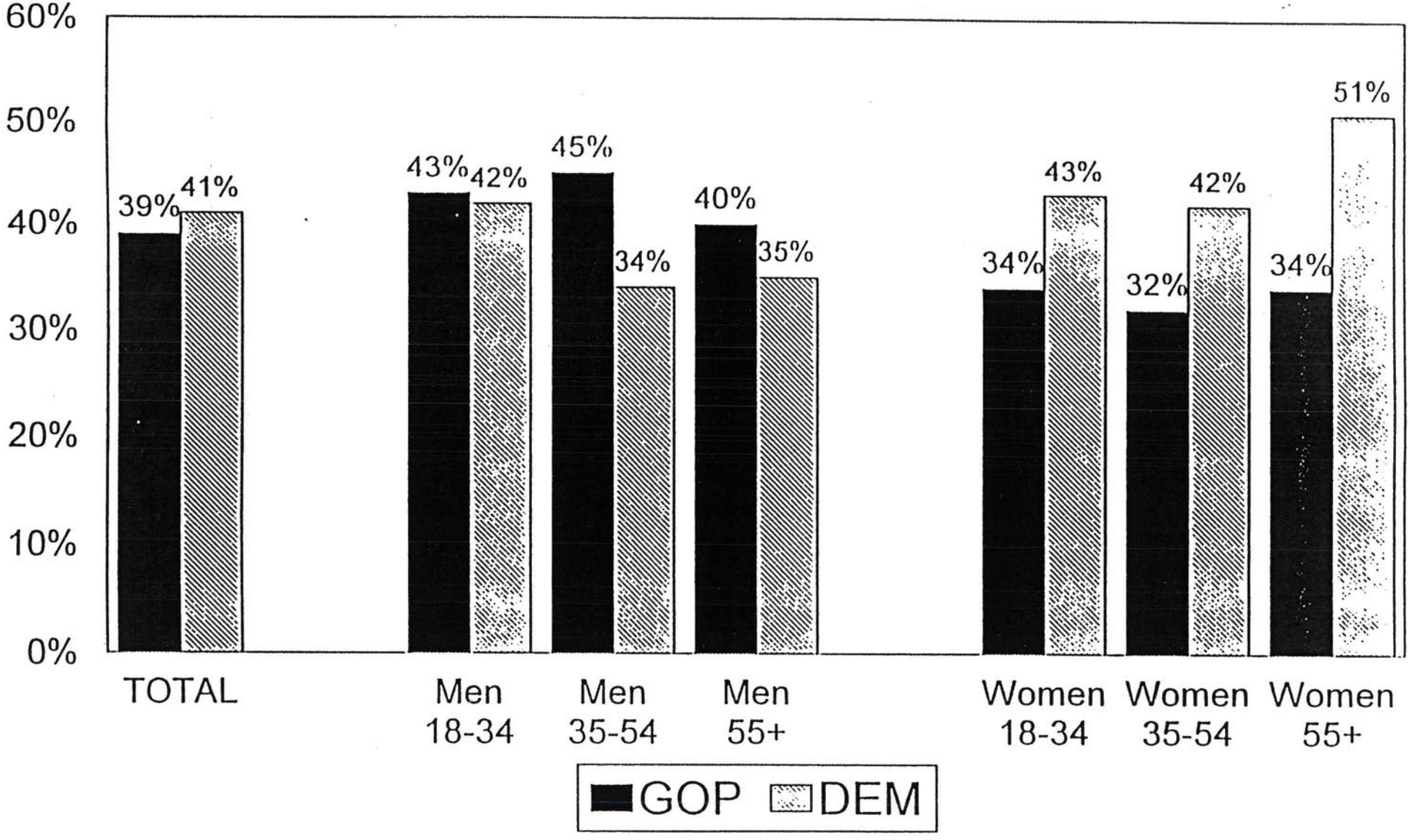
PARTY IDENTIFICATION



Public Opinion Strategies
National Surveys

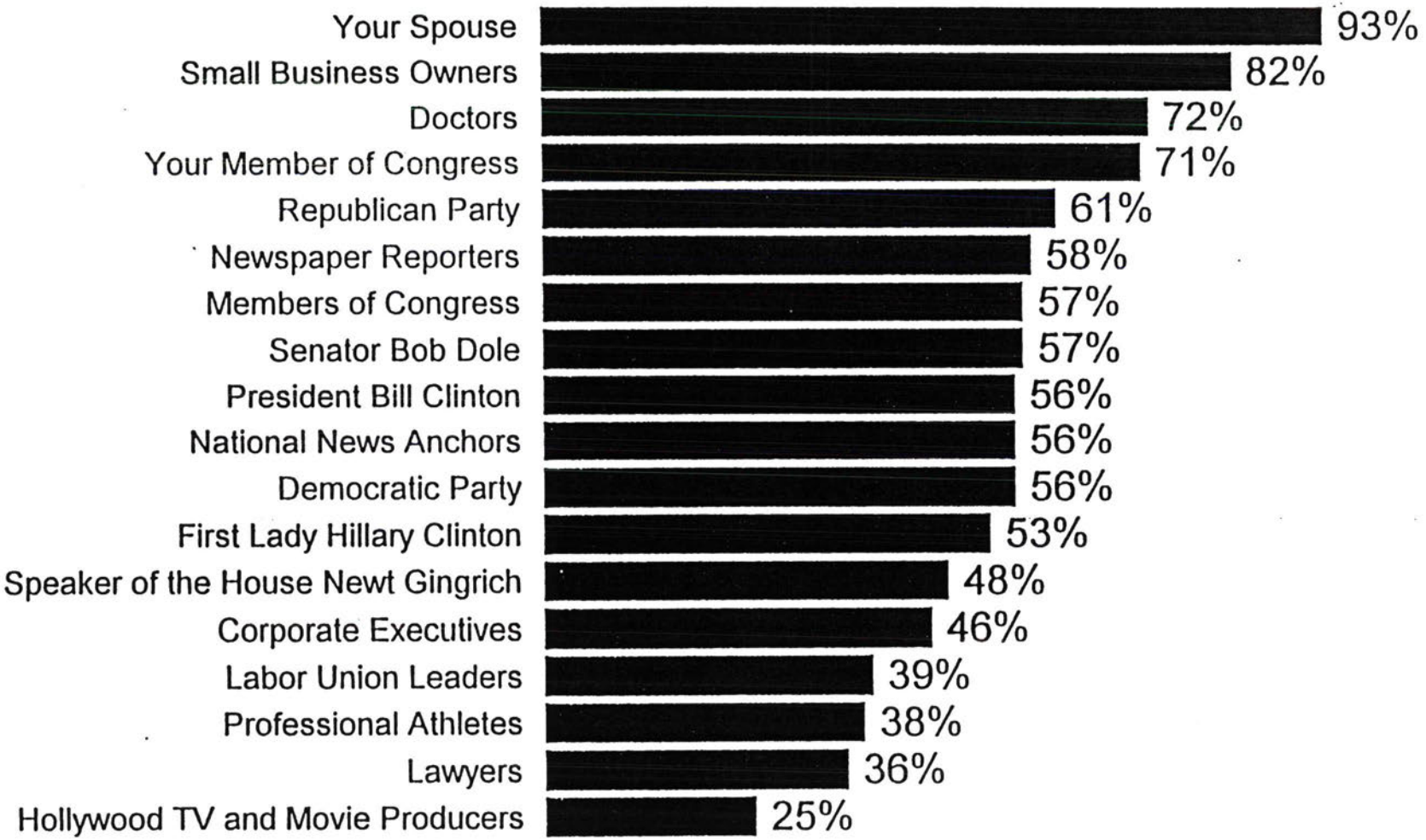

MANELLY Chicago Tribune
ROUGH DAY AT THE OFFICE, DARLIN'?
Bucket
DEMS

Party Identification by Gender and Age

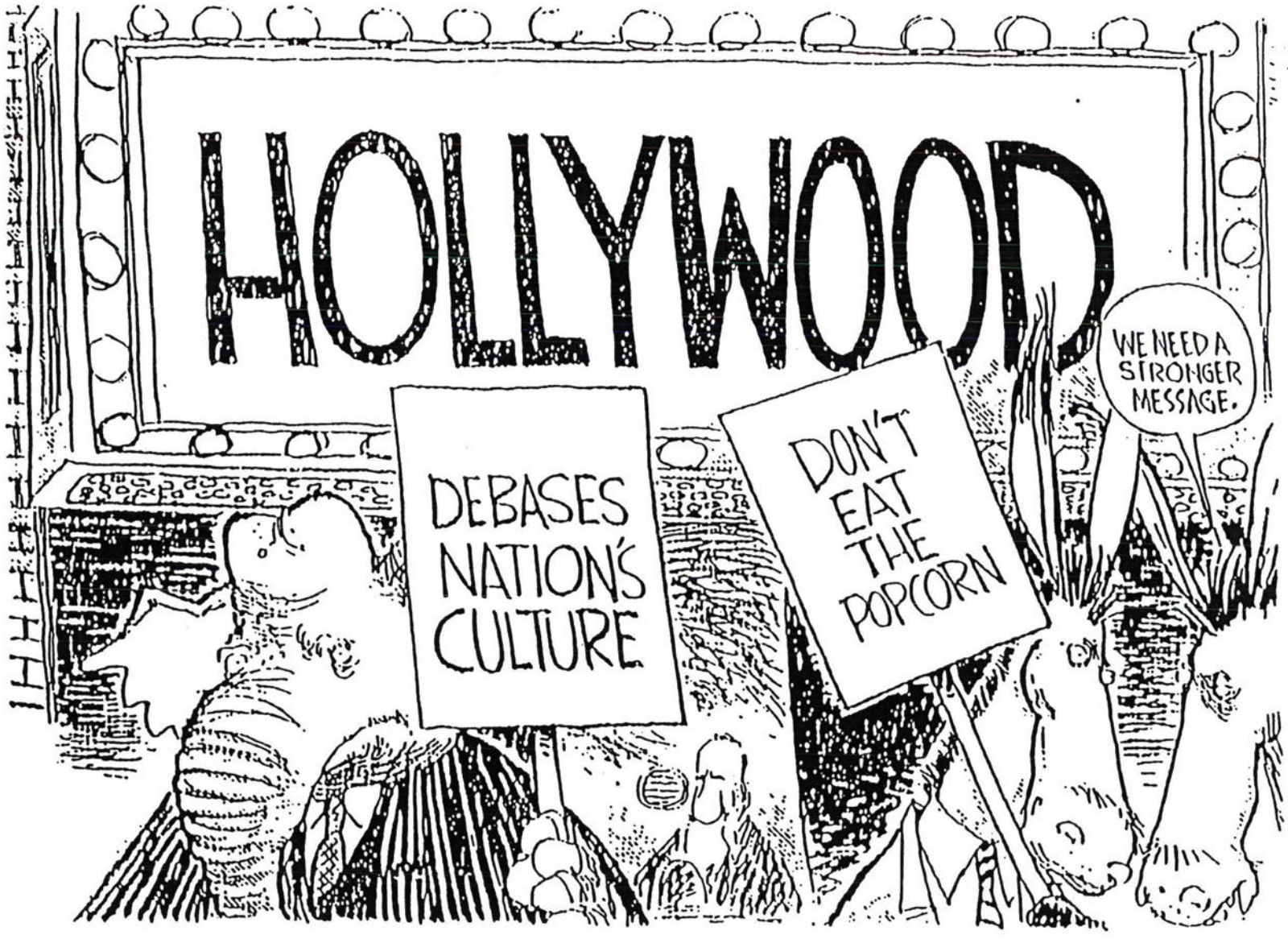


PUBLIC OPINION STRATEGIES
POS July National N=800 Registered Voters
July 8-10

HOW WELL DOES EACH REPRESENT YOUR VALUES?



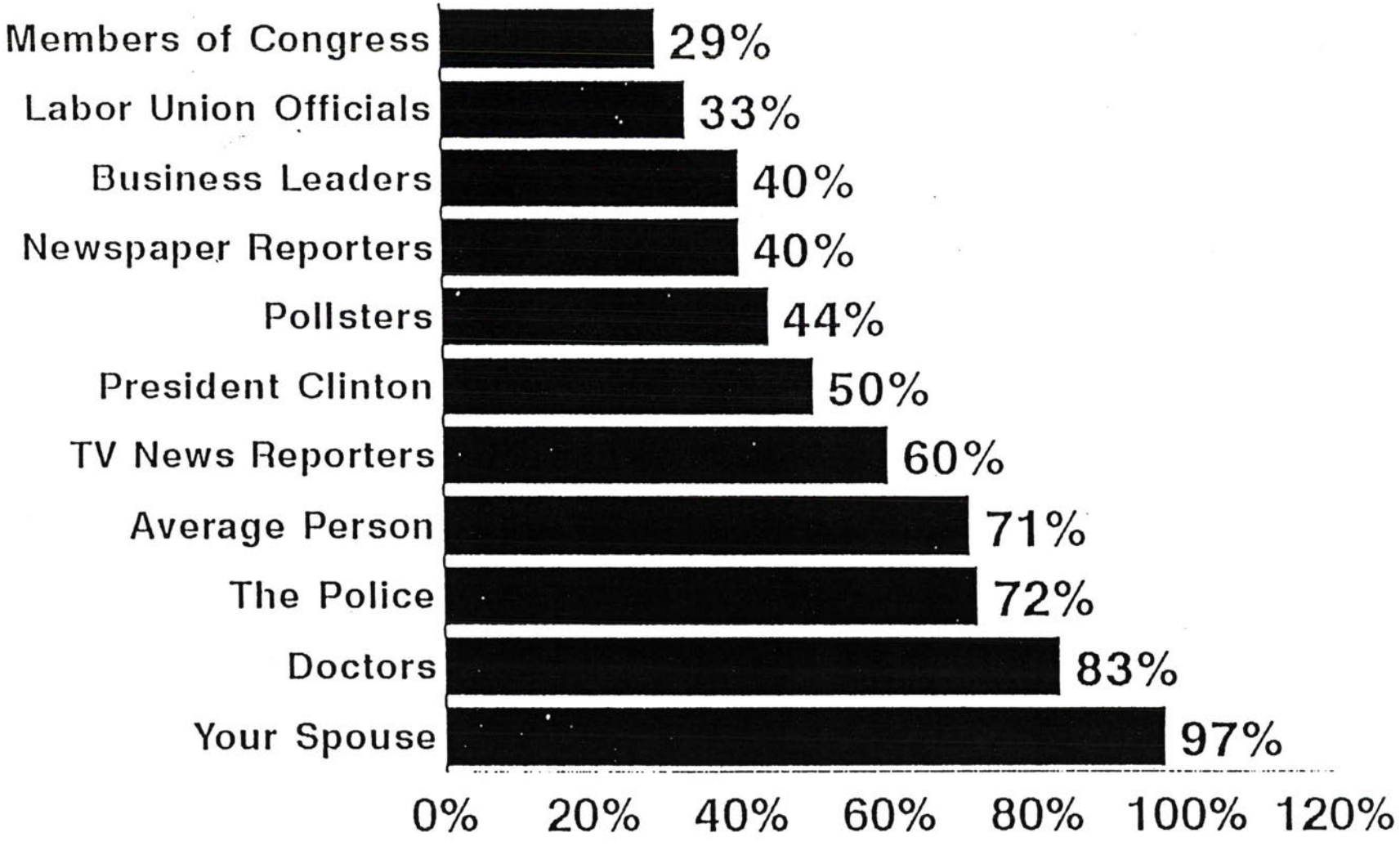
PUBLIC OPINION STRATEGIES
APRIL NATIONAL, N = 800 ADULTS
APRIL 17 - 19, 1995



Chip Bok
Akron Beacon Journal
Creators Syndicate

TELLING THE TRUTH

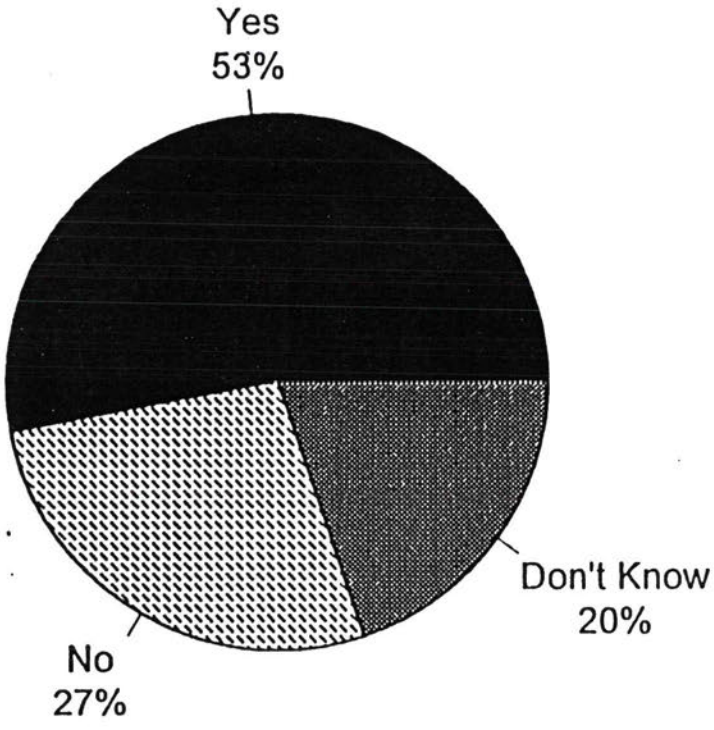
Percentage Who Said These People Generally Tell the Truth



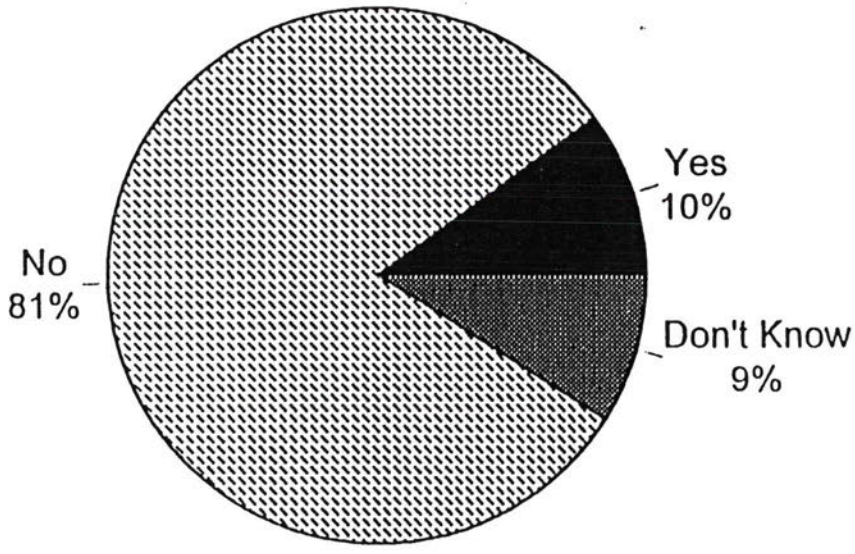
Washington Post
February 9-13, 1994

Like to see run for President?

Powell



Gingrich



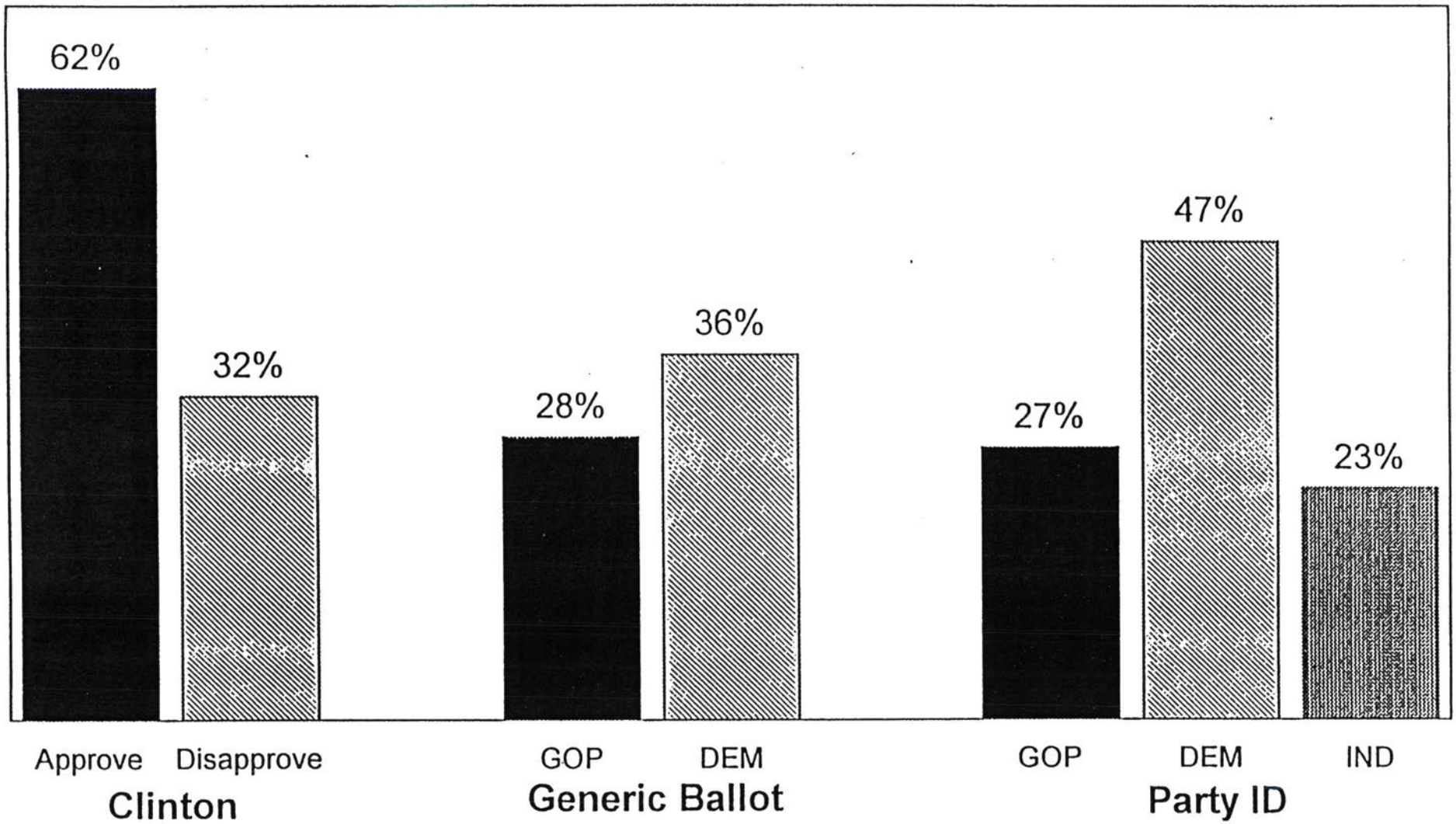
TIME/CNN
September 13-14, 1995
N=1000 Adults

The Disease. . .

- ***Presidential year only voters currently are decidedly Democrat:***
- ***More likely to support Clinton***
- ***More likely to vote Democrat***
- ***Heavily Democrat in party affiliation***

Attitudes of Presidential-Election ONLY Voters

Voted '92/Not '94



PUBLIC OPINION STRATEGIES
July 8-10, 1995 National, N=800 Registered Voters

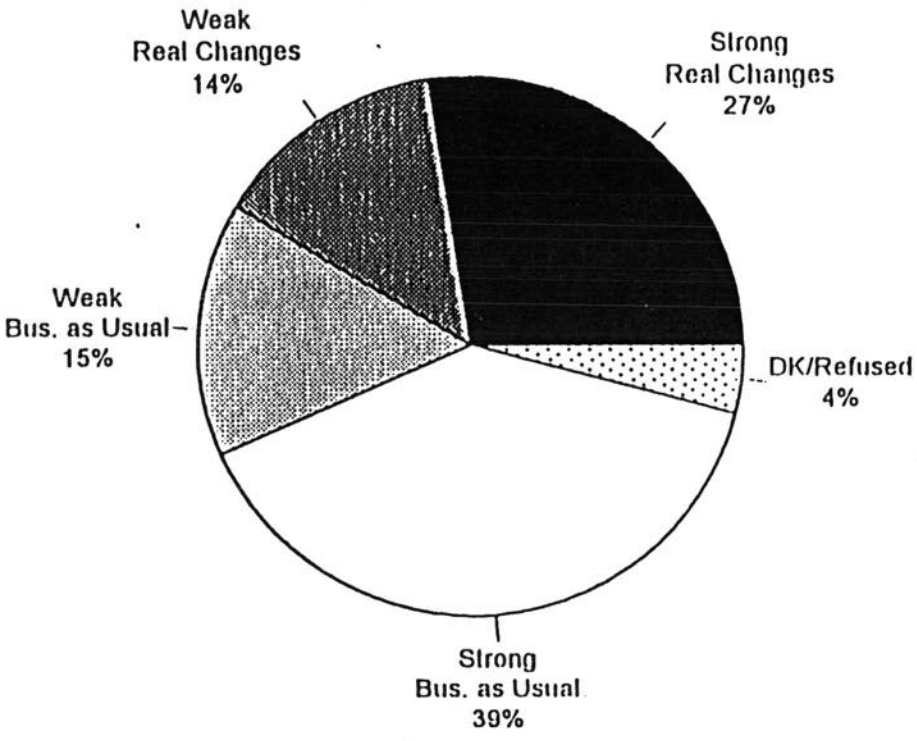
The Symptoms. . .

As a note of caution, however:

- *It appears the Republican momentum has stalled.*
- *Has it topped out naturally, or was it just too difficult to sustain?*
- *Voters still do not see a significant difference in Washington.*
- *If the Democrats decide to steal our '92 and '94 Message of Change -- they probably could; but not credible yet.*
- *Republicans must take care to highlight that the Price-Waterhouse report deals with the Democrat years*

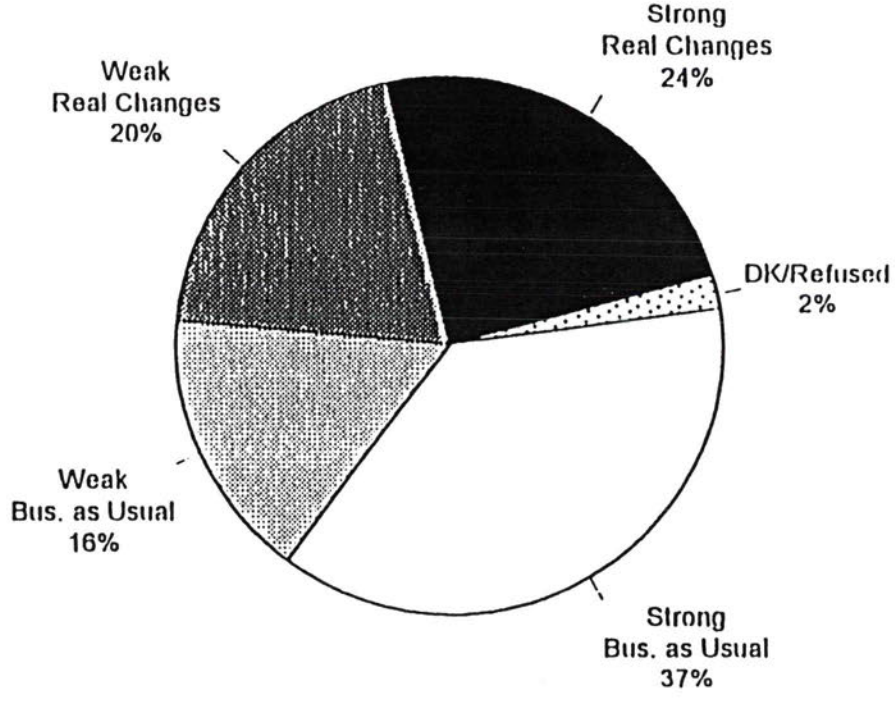
Republicans control Congress for the first time in more than 40 years. From what you've seen, read or heard about the job they've done, do you believe they are making real changes or do you believe its pretty much business as usual?

Total Sample



Total Real Changes: 42%
Total Business as Usual: 55%

Perot Voters



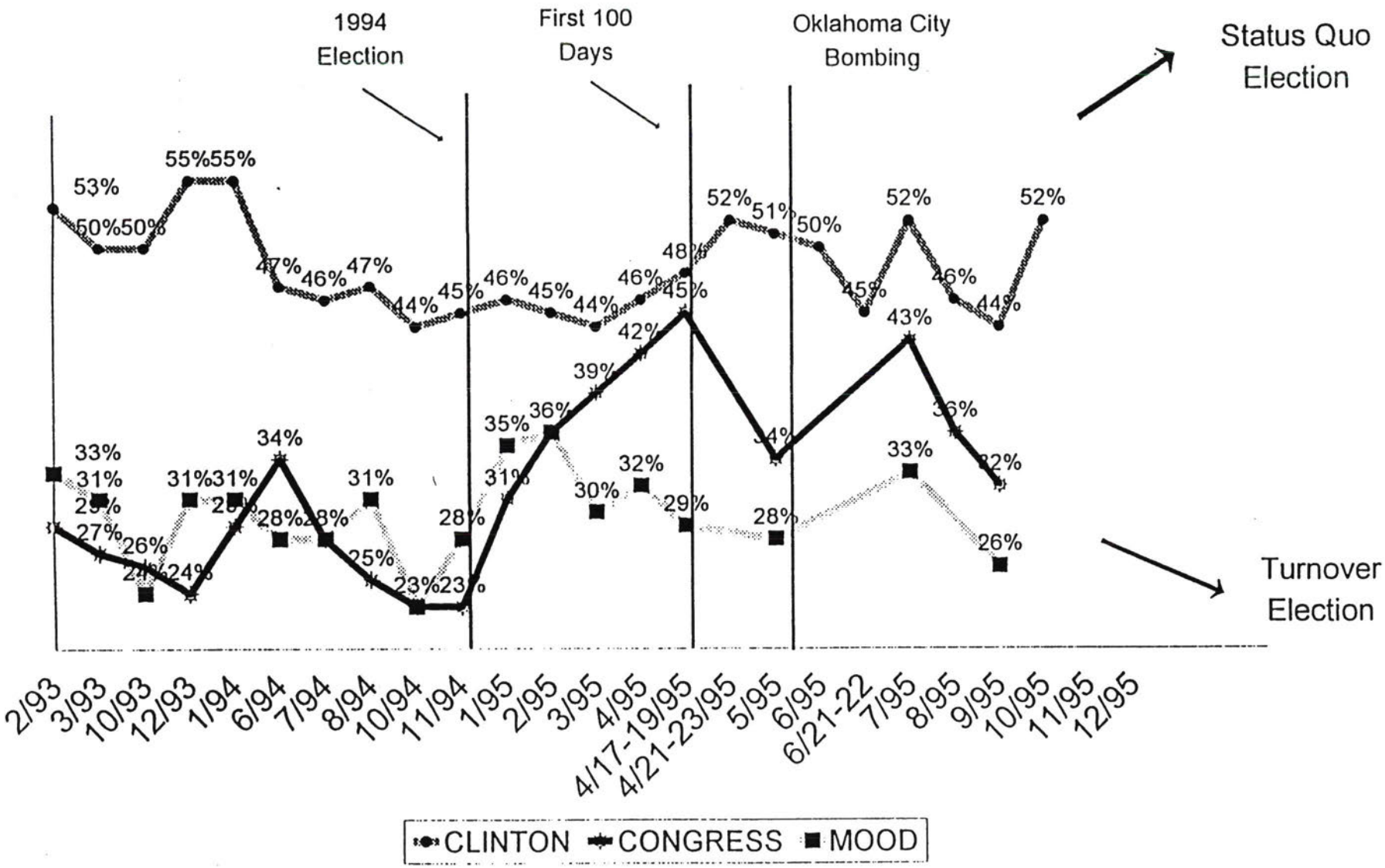
Total Real Changes: 44%
Total Business as Usual: 54%

PUBLIC OPINION STRATEGIES
P.O.S. July National N = 800 Registered Voters
July 8 - 10, 1995

"Angry" White Men
"Ambivalent" White Women

"Angry" White Men	Post-Election 1994	"Ambivalent" White Women
36% - 61%	Clinton Approval (App/Dis)	51% - 42%
29% - 66%	Clinton Re-elect	40% - 51%
58% - 29%	Congressional Ballot (R-D)	48% - 43%
66% - 32%	Change Direction of Nation/ Continue Pres' policy	47% - 47%
56% - 28%	Party ID (R-D)	46% - 40%
	July 1995	
40% - 55%	Clinton Approval (App/Dis)	55% - 39%
30% - 64%	Clinton Re-elect	39% - 53%
51% - 23%	Congressional Ballot (R-D)	35% - 36%
63% - 35%	Change Direction of Nation/ Continue Pres' policy	45% - 47%
49% - 28%	Party ID (R-D)	37% - 42%

Clinton/Congress/Mood



NATIONAL DATA

13 Keys That Determine Presidential Winner:

Against Clinton -

a. GOP House gain
b. No major policy change
c. Untainted from scandal
d. No major military/foreign policy success for Clinton

For Clinton -

a. Sitting President
b. No sustained social unrest
c. No major failure in military or foreign affairs
d. Charismatic
e. Challenger is more charismatic than incumbent

Undecided

a. No serious challenge in nomination
b. No third party candidates
c. Economy not in recession
d. More economic growth than last administration

Conclusion: Clinton wins if no economic recession

THE PRESIDENT HAS SEEN
12/5/95

THE WHITE HOUSE

WASHINGTON

95 NOV 29 P4:16

22 November 1995

MEMORANDUM FOR THE PRESIDENT
THE VICE PRESIDENT

FROM: HAROLD ICKES (HI)

RE: ACCOMPLISHMENTS CARDS

The DNC printed 55,000 cards highlighting the economic accomplishments that have taken place during your Administration. 10,000 of the cards were distributed to the White House advance office for distribution on your trips, 3,000 were given to Cabinet Affairs for Secretaries to distribute on their trips, the DNC is going to mail 32,000 to members and donors over $100, and the remaining 10,000 are for the DNC to keep when people ask for them. A sample of the cards is attached.

Should send to all OM '92 workers and Eleanor Burns in all States —

THE BEST RECORD SINCE...

GETTING THE JOB DONE:
In first 2 years passed 86% of legislative agenda — highest since Johnson was President.

DEFICIT:
Coming down for 3 years in a row — first time since Truman was President.

JOB GROWTH:
7.3 million in just 31 months — better than any Republican Administration since the 1920's.

PRIVATE-SECTOR JOBS:
92% of all new jobs — highest since Truman was President.

REGIONAL GROWTH:
According to Fortune, for the first time since 1984, all 50 states are expected to expand in 1995.

FEDERAL EMPLOYMENT:
On course to reduce federal workforce by 272,800 — smallest since Kennedy was President.

INFLATION RATE:
2.7% average annual rate — lowest since Kennedy was President.

MISERY INDEX:
In 1994, the combined measure of unemployment and inflation — lowest since 1968.

NEW BUSINESS INCORPORATIONS:
Up at an annual rate of 729,600 — highest rate since World War II.

PRODUCTIVITY:
Up at an annual rate of 1.8 percent — highest since Nixon was President.

BUSINESS INVESTMENT:
Up 18.3 percent at an average annual rate — highest relative to GDP since World War II.

COMPETITIVENESS:
In 1994, the World Economic Forum declared the United States the world's most competitive economy for the first time in 9 years.

AUTO PRODUCTION:
The United States was the world's #1 auto producer in 1994 for the first time since 1980.

BUILDING A BETTER FUTURE FOR AMERICA'S FAMILIES.

THE EDUCATION PRESIDENT:
"Bill Clinton Has Earned The Coveted Mantle of 'Education President'"

(Washington Post, 10/16/94)

- *HEAD START: 50,000 more kids ready to learn*
- *DIRECT LENDING: Saved taxpayers $6.8 billion, while lowering interest rates for students and allowing for flexible repayment loans*
- *PELL GRANTS: 800,000 more for eligible students*
- *NATIONAL SERVICE: Nearly 50,000 community service and college-aid opportunities*

EXISTING-HOME SALES:
In 1994, totaled 3.97 million — highest since Carter was President.

A REMARKABLE RECORD

Economic Record

	Before	After 2½ Years
Deficit	Highest dollar level in history — $290 billion deficit in FY92	Deficit cut nearly in half to $160 billion — down $1 trillion over seven years
Overall Job Growth	Previous Administration: worst record since the Great Depression	Over 7 million new jobs — better record than any Republican Administration since the 1920's
Unemployment Rate	Over 7% (January 1993)	5.6% (August 1995)
Jobs in High-Wage Industries	268,000 lost during previous 4 years	More in 1994 than in previous 5 years combined
Construction Jobs	665,000 lost during previous 4 years	711,000 created
Manufacturing Jobs	2.2 million lost during previous 12 years	266,000 created
New Business Incorporations (Average Annual Rate)	Over 10% slower than during Clinton Administration	Highest since the Second World War (729,600)
Federal Employment	Larger federal bureaucracy in January 1993 than four years earlier	Smallest since Kennedy was President — on course to reduce federal workforce by 272,800
GDP Growth (Average Annual Rate)	1.4% from 1989-1992	3.5% — over twice as fast as previous Administration
Productivity Growth (Average Annual Rate)	1.1% during previous Administration	1.8% — highest since Nixon was President
Inflation (Average Annual Rate)	Over 4% during previous Administration	Lowest since Kennedy was President (2.7%)
Misery Index (Combined Measure of Unemployment and Inflation)	In double-digits during entire previous Administration	Lowest in 25 years
Business Investment (Producer's Durable Equipment Average Annual Growth Rate)	2.1% from 1989-1992	Nearly 9 times higher than previous Administration (18.3%) — reaching a postwar high relative to GDP
Mortgage Rates (Average Fixed Mortgage Rate)	From 1989-1992: 9.5% From 1981-1988: 12.9%	Since January 1993: 7.99%

Paid for by the Democratic National Committee

NORMAN LEAR

THE PRESIDENT HAS SEEN
12/15/95

December 5, 1995

Dear Mr. President,

Congratulations on Bosnia and your show of independence and strength in so many directions.

Tomorrow you are meeting with leaders from around the country to discuss what your office might do about AIDS.

I believe that a half billion dollars can be raised from the private sector if the President called for it and offered to match that sum with federal funds -- thus providing one billion dollars for science to hunt a cure.

I know you believe the solution to a number of our problems will require collaboration with the private sector. Think about starting the process with a determined cooperative effort to find the search for a cure for AIDS.

Best regards,

NL/la

VIA OVERNIGHT
President Bill Clinton
The White House
1600 Pennsylvania Ave., West Wing
Washington, D.C. 20500-2000

THE PRESIDENT HAS SEEN
12/5/95

THE WHITE HOUSE

WASHINGTON

November 27, 1995

95 NOV 27 P5:07

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: Carol Rasco

SUBJECT: Academic Health Centers and Budget Strategy

I. SUMMARY

After reviewing John Young's (Co-Chair of the President's Committee of Advisors on Science and Technology) letter and suggestions on how to support academic health centers, you asked for an update of where our health/budget policy and strategy stands with regard to this issue. Chris Jennings has provided us with the following update:

By any definition, academic health centers would fare better under your balanced budget plan than they would under the Republican's budget. However, despite personal appeals by Leon and other senior White House officials, the association that represents academic health centers nationally -- the American Association of Medical Colleges (AAMC) -- has refused to be publicly critical of the Republican plan.

Out of fear that the academic health centers would play the "quality" card, the Republicans actively courted their support (or at least non-opposition). Their negotiations produced a $13.5 billion Graduate Medical Education (GME) trust fund.

The source of financing the new Republican GME fund is unclear and certainly may not be permanent. Even if one assumes the new account will be fully funded, it would not come close to offsetting the deep Republican Medicare and Medicaid cuts that will hurt academic health centers. Moreover, it would still leave these institutions in much worse shape (at least $4-5 billion over seven years) than they would find themselves under your balanced budget plan.

Despite acknowledging the above shortcomings, the leadership of the AAMC fears alienating the Congressional Republicans. (The AAMC also says they fear their silence on the budget front may harm their relationship with the Administration.) However, we do not anticipate a change in their "play both sides of the track" strategy -- at least until later in the game.

II. DISCUSSION

Not all representatives of academic health centers have remained silent about the Republican health care cuts. Those from Boston and New York have been critical, but the elite national press rarely picks them up.

Although some in the AAMC privately concede that their stay quiet strategy may well end up costing them big money, they have chosen this course for three reasons. First, unlike the Republicans, they do not believe we would ever do anything that is hostile to their concerns. Second, they successfully bargained for their significant GME trust fund. And lastly, they well understand that the Republicans will be drafting the details of any final deal and they want to have "friends on the inside" when they do.

Based on our current academic health care policy, their calculated assumption that we would take care of them is not unfounded. In fact, your proposal incorporates every recommendation made by Dr. Young. It:

- Establishes a new Commission to develop specific policies that address the long-term private and public funding challenges academic health centers face in an increasingly cost-conscious and competitive environment;

- Keeps cuts in Graduate Medical Education (GME), Disproportionate Share (DSH), and Medicaid to a minimum (about $12 billion less than what the Republicans advocate); and

- Proactively responds to the academic health centers' number one legislative priority -- the establishment of a new GME fund that is financed by a reduction in Medicare reimbursement to HMOs. (Most Medicare HMOs are not contracting out with academic health centers but are being reimbursed by Medicare as though they are; the new $5-7 billion fund would be used to create incentives for HMOs to contract out with academic health centers.)

The AAMC likes the Republicans' trust fund concept because it opens the door to the possibility of non-Medicare generated financial support. However, their first priority is the GME fund proposal included in your balanced budget plan. This is because, unlike the Republican trust fund, they know they can count on the money being there. (Not surprisingly, they would like us to support the retention of the Republican trust fund -- no matter how little the money.)

We will continue to meet with the representatives of the academic health center community to seek their support in the upcoming negotiations. They may come on board later in the process.

THE PRESIDENT HAS SE
11-20-95

EXECUTIVE OFFICE OF THE PRESIDENT
PRESIDENT'S COMMITTEE OF ADVISORS ON SCIENCE AND TECHNOLOGY
WASHINGTON. D.C. 20500

95 NOV 14 P12:28

November 8, 1995

Leon / ERR / Carol
Big item - we need to discuss up front our recommendations
Budget Strategy

President William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. President:

The significant accomplishments in American biomedical research and our innovations in medical care are widely respected throughout the country and, indeed, the world. These achievements have occurred primarily at our Nation's academic health centers. Since World War II, the Federal government has played a vital role in the support of academic health centers and has done so on a bipartisan basis.

Your Administration's 1994 health care reform plan acknowledged the important contribution to our quality of life made by academic health centers and provided a mechanism to mitigate the loss of significant revenue that these institutions are now experiencing. In the absence of comprehensive health care reform, academic health centers are beginning to show signs of serious stress. Although they represent only six percent of the Nation's non-Federal acute care hospitals, these institutions provide more than half of the care for the indigent and uninsured populations. The prospect of sharp reductions in Medicare, Medicaid, and Disproportionate Share (DSH) expenditures, coupled with the erosion of clinical revenues resulting from the emergence of managed care, could have a devastating impact on the Nation's capacity to support medical research and education and the system that provides medical care to its most vulnerable citizens.

Academic health centers develop the biomedical knowledge and clinical techniques needed for new and improved treatments, train the Nation's physicians and provide unique patient care resources. In the long term, biomedical research conducted in these centers offers our citizens the best potential to enhance their quality of life and control medical expenditures with cost-effective methods for disease prevention and management.

Historically, the Federal government has assumed responsibility for a majority of the support for fundamental biomedical research and graduate medical education as a public investment that contributes broadly to the health of Americans. In 1995, the Federal investment in academic health centers for biomedical research and education was about one percent of total health care expenditures. Measured by any standard, this very modest rate of investment in an area of extraordinarily rapid advancement in knowledge and technology has had a remarkable yield. In addition, the Federal government provides, through the Medicaid and DSH programs, significant support for low-income patient care delivered in academic health centers.

Clinical revenues derived from medical practice programs conducted by the faculty of academic health centers have been another very significant source of funds for these programs of research, education and indigent care. Current changes in the health care system, including Medicare and Medicaid reform, driven by Federal and State fiscal concerns and the emergence of managed care, also threaten to eliminate this critical support for biomedical research and medical education.

We recognize the need to slow the rate of growth in health care costs and endorse efforts to address this need. Both public and private elements of the health care system need to be carefully examined and restructured to enhance medical efficacy and cost-effectiveness. However, it is also essential that in this process, the crucial public benefits that are contributed uniquely by academic health centers be recognized, and that their continued strength remain an important priority in the ongoing health care debate.

A panel of your Committee of Advisors on Science and Technology (PCAST) examined these issues and reached the following conclusions:

- **Sharing the Responsibility** – The education of competent physicians and scientists, and the production of new biomedical knowledge and technologies, represent vital public necessities. To date, only the Federal government has supported these functions explicitly through the Graduate Medical Education (GME) mechanisms of the Medicare program. With a few notable exceptions, other payers do not contribute to this support. We affirm the principle that responsibility for supporting the missions of academic health centers and their contributions to the well-being of society should be broadly shared by all who benefit.

- **Care for the Indigent and Uninsured** – Historically, academic health centers have provided care for a disproportionate share of the indigent and uninsured populations and have received a Medicare payment adjustment for this service. It is likely that this responsibility can only increase in the developing private and public medical care marketplaces. With the trend toward managed care, others are even less likely to provide this service because of its resource-intensive nature.

- Current Debate -- A satisfactory disposition of these critically important and complex issues is unlikely to emerge from the heat of the current public debate, with its intense and narrow focus on budgetary concerns.

To support and sustain the Nation's academic health centers in the immediate future and over the longer term, PCAST therefore respectfully suggests that you consider the following recommendations:

- **Expert Commission** – We recommend that an expert commission, credible to the President, the Congress and the public, be established to develop and recommend specific policies to address the preservation of the research and educational capacity of the Nation's academic health centers, and the supply, composition and support of the future health care work force. The commission should carefully consider the implementation of an equitable mechanism to achieve these objectives. The commission should also determine the most effective way to allocate training funds in furthering the goals of a rational workforce policy to ensure that the numbers and competencies of health care professionals are responsive to the Nation's needs. We believe that such an approach can best ensure the future vitality of our biomedical research enterprise and the highest quality of our Nation's medical care.

- **Graduate Medical Education (GME)** – In the interim, in revising the Medicare program, the Administration should continue to resist disproportionate decreases in the GME accounts. Further, the funds for GME that are currently melded into the premiums paid to all Medicare managed care providers (the Average Adjusted Per Capita Cost formula) should be redirected to accomplish their intended objectives. This may entail developing a process that provides these payments directly to caregivers and institutions that are involved in graduate medical education.

- **Disproportionate Share** – If academic health centers are to continue their role of disproportionately caring for the indigent and uninsured populations, then appropriate resources must be provided. This will almost certainly remain a responsibility of the government.

PCAST believes that the academic health centers are a national resource that, together with our research universities, must be sustained for the good of the Nation. We hope that you will find these recommendations helpful.

Sincerely,

John A. Young
Co-Chair
President's Committee of Advisors
on Science and Technology

THE PRESIDENT HAS SEEN
12/15/95

8087

THE WHITE HOUSE

WASHINGTON

November 22, 1995

95 NOV 22 A9:41

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
JACK QUINN

SUBJECT: Armscor

You asked for an update on Armscor, the pending criminal case that Nelson Mandela raised with you. The case involves violations of U.S. arms export control laws, prior to 1991, by Armscor, a parastatal South African munitions company. We need to balance our law enforcement interests, our nonproliferation interest and our interest in relations with South Africa. Our negotiations with Armscor to date have contemplated both a criminal penalty on the company (pursued by the Justice Department) and a mechanism to discourage future violations (pursued by the State Department pursuant to the civil enforcement provisions of the Arms Export Control Act).

Our ongoing review indicates two important factors:

-- From a law enforcement perspective, Justice and State proposed a reasonable settlement consistent with past practice. From a law enforcement perspective, South African concerns with the settlement are unfounded or exaggerated. From a political perspective, they are largely understandable.

-- South Africa is not likely to agree to the proposed settlement, or minor adjustments to it. Rather, South Africa resists any guilty plea. The proposed settlement has become a major political issue in South Africa. The issue is increasingly a serious domestic problem for Mandela and Mbeki and a significant irritant in our bilateral relations. Left to run its course, the case could soon enter protracted litigation.

The initial issue is whether these foreign policy considerations should cause a shift in Justice's approach to the criminal case. In theory, it is clear that the Secretary of State can request, or you can direct, a change in approach to a criminal case for foreign policy reasons. In practice, this is extremely rare. In fact, we are unable to identify any case in the last twenty years in which the Justice Department has changed its disposition of an

cc: Vice President
Chief of Staff

indicted case because of foreign policy concerns. Although the South African case is arguably unique and presents serious foreign policy concerns, any foreign policy intrusion into the disposition of the criminal case may draw strong criticism as an unprecedented "interference" in criminal law enforcement.

The follow-up issue would be how much of a change to seek in the DOJ approach to the criminal case for foreign policy reasons. One option would be for DOJ to drop the criminal case altogether (and provide some reassurance against future prosecutions for past acts). We would instead concentrate on putting in place a mechanism to ensure against future violations of our export control laws. We would argue it is not essential to punish the new South African government for the crimes of its predecessor through criminal conviction and that our interest is in preventing recurrence, helping Mandela and getting this issue behind us. However, dismissal may encourage other countries to seek foreign policy intervention in criminal cases, is likely to be strongly opposed by the Attorney General and could provoke substantial public or Congressional criticism.

An alternative would be to moderate substantially our current negotiating positions, without requesting complete dismissal of the criminal case. For example, we could insist Armscor plead guilty to its past actions but limit or drop the roughly $15 million fine Justice/State have been seeking. We might also offer some form of assurances concerning future prosecutions for past actions and amend our proposed future compliance regime to accommodate South Africa's sovereignty concerns. This option would draw less resistance from Justice and may be easier to defend publicly. However, it is not clear this alternative would satisfy South Africa, which has objected strenuously to accepting a guilty plea. If not, we may enter protracted litigation.

Properly, the Justice Department will not change its current course without a formal communication of foreign policy concern from Secretary Christopher or direction from you. We think it preferable, if possible, to resolve this in collaboration with the Justice Department without your involvement.

Secretary Christopher has decided to send a letter to the Attorney General concerning the foreign policy implications of DOJ and Armscor's inability to reach a settlement of the case. The letter should provide a basis for Justice, State and NSC officials to meet and discuss what approach best promotes our law enforcement, nonproliferation and South Africa policy interests.

Copy [redacted] to [redacted] reply

M

12-S

Copy to J. Jolley for reply.

M.

Do a nice reply

Reply/Sound

Ltr

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

JAMES L. OBERSTAR
8TH DISTRICT, MINNESOTA

NOV 28 P4:15

November 22, 1995

THE PRESIDENT HAS SEEN
12-5-95

Dear Mr. President,

Congratulations on Bosnia! All the skeptics and political "hot-shots" said it couldn't be done, but you did it, and proved them wrong... once again.

Last July, on my return from a private trip to Slovenia (land of my paternal grandparents), I reported to Strobe Talbott specific steps the Slovenes recommended to bring the Bosnian conflict to resolution - specifically, actions needed to contain the Serbs. Whether directly or indirectly, those measures were taken, and the result has been astonishing.

You deserve total credit for the success of this peace initiative because, after all, you had the guts to take the risks of military action and then to be persistent

in keeping the peace talks alive and in America - not Geneva, Paris, London, or Moscow! Now, all the world knows that America - and President Clinton - made the peace happen.

There is so much to thank you for at this Thanksgiving:

- The White House Conference on Travel and Tourism;
- Restoration of democracy in Haiti;
- Peace in the Middle East;
- Bosnia;
- Open skies aviation agreement with Canada;
- Standing up to the Republicans on Medicare and the budget;
- The vigor and intellect and integrity you bring to the Presidency and leadership of our country and the Democratic Party!

Thank you, Mr. President - Proud to be an unflinching member of your team.

Jim Chastain

THE PRESIDENT HAS SEEN
12-5-95

THE WHITE HOUSE

WASHINGTON

December 3, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN
PHIL CAPLAN
HELEN HOWELL

SUBJECT: Recent Political Information Items

We are forwarding the following recent political information items:

(A) **Debra DeLee memo on '96 convention.** She recommends an overall creative team as follows: First, a supervisory "Creative Council" made up of Maggie Williams, Ron Brown, Harold Ickes, Ron Klain, Harry Thomason, Susan Thomases and Debra. Second, internal staff -- Rick Jascula (experience in PR, marketing, media, advance) is joining team as Deputy CEO; Debra recommends Gary Smith as tv producer (he did 1988 and 1992 Conventions, Barbra Streisand Special, is highly recommended by Harry, Susan and Mike Berman); Rene Lagler as Production Designer; Berman, Michael Sheehan, Bob Healy and Jim King to handle podium and speakers as they have in the past. Third, external creative advisors such as Steven Speilberg and Rob Reiner, under Harry's direction. Final approval needed on: 1) the hiring of Gary Smith as TV producer; 2) the design for the stage/podium; and, 3) convening the next meeting of the Creative Council with the First Lady.

(B) **Ickes memo on C/G '96 Re-elect fundraising projections.** If federal matching funds are included, Terry McAuliffe and Laura Hartigan expect to raise $38.9 million of the total $42.8 million pre-convention budget by December 31. The February prospect mailing will be cancelled for a savings of $250,000, and the total expense of fundraising operations will be very close to the $6.2 million permitted by FEC guidelines (down from the $6.6 million projected previously).

(C) **Clinton/Gore '96 Direct Mail** The C/G Re-elect's October "Survey Package" was sent to 250,000 members and prospective donors at a cost of $130,000. Mailing is projected to gross $320,000.

(D) **Ickes memo on DNC fundraising.** In 1995, the DNC raised (as of October 30) $18.4 million at events attended by you, the Vice President, Mrs. Clinton and Mrs. Gore. Harold also forwards a chart with a detailed breakdown of the events.

THE PRESIDENT HAS SEEN
12-5-95

95 NOV 29 P4:15

27 November 1995

MEMORANDUM TO THE PRESIDENT
THE VICE PRESIDENT

CC: Leon Panetta
Erskine Bowles
Maggie Williams
Ron Klain
Skila Harris

From: Harold Ickes

Re: 15 November 1995 memorandum to the President and the Vice President from Debra DeLee regarding the 1996 Democratic National Convention

Attached is the self explanatory 15 November 1995 memorandum to the President and the Vice President from Debra DeLee which she asked me to transmit to both of you.

CHICAGO

DEBRA DELEE, CEO

MEMORANDUM for the PRESIDENT
VICE PRESIDENT

FROM: Debra DeLee, CEO
DATE: November 15, 1995
RE: 1996 Democratic National Convention

The Democratic National Convention will provide an opportunity to communicate the accomplishments of this Administration and deliver a clear and concise Democratic message to the nation.

Convention planning can be divided into four distinct spheres:

The first is logistics and operations. This encompasses everything outside the convention hall: transportation, hotels and housing, security, the "science" of credentialling and volunteers.

The second sphere is communications. This includes message & theme development for the convention, delivering that message to the national and international media, media arrangements and logistics.

The third sphere is production, both the creative and technical elements. It is basically everything inside the hall: the content of the program, the balance between business meetings, speakers and entertainment, as well as construction and design of the hall.

And the final sphere is the political aspect of putting on a national nominating convention: coordination with the White House, the DNC, the City of Chicago, state and local elected officials, the Democratic leadership in Congress, international dignitaries and the "art" of credentialling.

This memo will specifically address the third sphere and my recommendations for the creative team to deal with what I call our "4 day mini-series."

DEMOCRATIC NATIONAL CONVENTION
P.O. BOX 641196 • CHICAGO, IL 60664-1196 • TEL (312) 832-1996 • FAX (312) 832-2515

I recommend the following elements of an overall creative team:

I. Creative Council

The creative group, which had one initial meeting in May with the First Lady, should continue to serve as the ultimate creative team for the convention. I will refer to them as the Creative Council. This group includes, Secretary Ron Brown, Harold Ickes, Jack Quinn's successor, Maggie Williams, Chairman Don Fowler, Harry Thomason, Susan Thomases, and me. We should also include the producer of the event.

II. Internal Staff

Rick Jasculca will be joining our team as Deputy CEO. Currently, Rick is President of Jasculca/Terman a public relations/public affairs. Jasculca/Terman has extensive experience with marketing campaigns, media tours, news conferences, communications management, speech writing and media training. Rick also has spent a significant amount of time doing White House advance for the President and First Lady.

In his role as Deputy CEO, he will oversee communications, media arrangements, production, satellite news, technology and the hall.

I recommend that we hire Gary Smith as our television producer. Gary is highly endorsed by both Don Fowler and Ron Brown who worked closely with him in 1988 and 1992 as well as by Harry Thomason, Susan Thomases and Mike Berman. Producing a special "show" like our convention requires a unique talent and is very different from producing movies or sitcoms. Gary has had much success in this genre including the Barbra Streisand Special (for which he just won an Emmy), the Disney Teacher Awards and the 1988 and 1992 Democratic Conventions. I am also impressed with Gary's understanding of our "culture" and the uniqueness of producing a convention when we have the White House.

I expect that Gary will want to bring with him the team that he assembled for that last two conventions -- Ricky Kirshner and others. This team also comes highly recommended.

Rene Lagler has been hired as our Production Designer. He worked on both the 1988 and 1992 conventions. Rene has been working closely with the construction firm of Stein & Co. on the possible design of the facility. Rene has produced a model of his design for the stage/podium and it has received kudos from Harold Ickes, Don Fowler, Harry Thomason and Susan Thomases.

Mike Berman, Michael Sheehan, Bob Healey, Jim King and others should be utilized during the convention in roles similar to those that they performed at previous conventions related to podium and speakers.

III. External Creative Advisors

Under the direction of Harry Thomason, a group of creative individuals who have been supportive of this Administration, such as Steven Speilberg and Rob Reiner, should be identified and asked to serve as creative advisors. This group may not ever be convened as a working body but they should be called upon for advice, ideas and creative capital.

There are also a number of consultants who need to be involved early on in the message, production and logistical arenas and who will eventually have very specific roles as the convention approaches. They should include but not be limited to, Jeff Eller, David Axelrod (Chicago-based), Mort Engleberg and Mike Berman.

These three elements, the Creative Council, Internal Staff and External Creative Advisors should make up the overall creative team for the convention. They will work closely with the White House and Re-elect as deemed appropriate by Harold Ickes.

The convention should be the perfect vehicle to celebrate and showcase the accomplishments of this Administration as well as officially kick-off the re-election campaign. To continue moving forward, the following items should be addressed as soon as possible:

1. Final approval on Gary Smith
2. Final approval of the design for the stage/podium
3. Convening the next meeting of the Creative Council with the First Lady

On a personal note, I am both honored and thrilled to be serving in this position. I take this opportunity very seriously and appreciate any response and reaction to these recommendations.

cc: Don Fowler
Harold Ickes
Jack Quinn
Maggie Williams

THE PRESIDENT HAS SEEN
12-5-95

CC Michel

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

ANTHONY C. BEILENSON
CALIFORNIA

November 17

Dear Mr. President -

I can't tell you how much I appreciated - and was touched by - your very kind note.

Our decision to not seek re-election was an extremely difficult one to make but, by the end of next year I shall be 64, and

shall have been in public office in Sacramento and Washington for 34 years — and it finally felt as though it was the right time to leave elective office (my wife feels that way even more strongly than I!).

It has been a privilege, a pleasure and an honor serving during your first four years as President — and I want you to know that I am fully committed, and stand ready to help, to keeping you here for another four years! Sincerely, Jerry.

THE WHITE HOUSE
WASHINGTON, D.C. 20500

DATE: 12/5

TO: Greg Simon

FROM: **Staff Secretary**

Is this letter OK with you? Please advise

Thanks,
Phil

To: G McC
co-sponsor
or
introduce

DRAFT

Dear Representative 1~:

Thank you for your leadership in securing passage of the Biotechnological Process Patents Amendments of 1995.

This new statute will ease the present difficulty in obtaining timely and adequate process patent protection for American biotechnology firms. The protection will foster new development, spur innovation and keep important, high technology jobs in America.

You can take pride in your role in ensuring the enactment of this important measure. Please accept the enclosed signing pen as a token of my appreciation.

Sincerely,

Cleared by
Peter Jacoby
Greg Allen

The Honorable 2~
House of Representatives
Washington, D.C. 20515

To: Phil
From: Jocelyn

35 NOV 28 P3:14