

05/18/93

SUBJECT: The organisation of the White House and the administration's political fortunes.

SIGNIFICANCE: The 'focus problem' results largely from the president's organisational style, his limited experience of federal government, and his concentration on domestic policy.

ANALYSIS: Since the successful Republican filibuster struck down his proposed economic stimulus (see OADB, April 5, 1993, I), President Clinton has been bedevilled by accusations of managerial ineptitude and, especially, an inability to adjust to the political realities of Washington. Attention has focused on the internal decision-making structure of the White House and Clinton's decision to appoint Thomas McLarty, a little known personal friend, as his chief of staff, rather than a heavyweight political figure.

Clinton has reacted to these administrative and political difficulties in two ways:

- On May 6 he appointed Roy Neel, a noted Washington insider and long-time aide to Vice President Al Gore, as a deputy to McLarty. Neel will focus mostly on congressional relations.
- The president is intending to spend more time outside Washington, using campaign-style appearances to try to rally public support behind his proposals.

There are three specific criticisms of the way that the Clinton administration has been making policy:

- Too much of the president's time is spent considering the details of policy, rather than choosing between different policy proposals put forward by members of his administration. Presidential time has thus often been spent in fruitless attempts to construct new policies from the parts of various options already proposed.
- Other than in the first month in office, when the budget plan dominated the administration's thinking, there has been a failure to establish a clear sense of priorities once policy positions have been established. Hence, the president appears to favour policy change in everything but in legislative terms is achieving nothing.

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-- The administration has failed to establish its strategy towards the Republicans in Congress, and has also appeared ignorant of the basic but fundamental differences between the House of Representatives and the Senate.

These problems stem from three principal sets of causes, not all unique to Clinton:

1. Weakness in the White House. These difficulties appear very common for Democratic presidents. As a rule, Republican presidents are generally faulted for having a strong administrative structure but an unambitious domestic political agenda, whereas Democratic presidents -- notably Kennedy and Carter -- are faulted for precisely the opposite combination, namely a full domestic agenda but weak White House management. The great exceptions to this trend were Lyndon Johnson and Ronald Reagan, who respectively had an unusually well-organised White House and an unusually substantial domestic agenda.

This pattern arises because Democratic presidents, precisely as a result of their extensive domestic interests, are extremely reluctant to appoint a powerful chief of staff who may usurp them in domestic policy. Initially, Democrats tend to try and do without a chief of staff altogether or, if they appoint one, endeavour to limit their role to bureaucratic coordination. By contrast, Republican presidents have consistently favoured a strong chief of staff and usually choose a heavyweight political figure.

2. Clinton's limited experience. Clinton's time as governor of Arkansas has left him with only modest experience of relevance to presidential and congressional politics (see OADB, December 1, 1992, III). Arkansas has a relatively weak and unprofessional legislature that meets for only 60 days every two years. Moreover, it has virtually no Republican members and few liberal Democrats other than black representatives. Congress has plenty of both groups and has rules and procedures, especially in the Senate, which can give the minority party considerable clout if it is sufficiently unified and determined.

3. Clinton's management style. As in Arkansas, Clinton favours a loose formal structure and a very inclusive deliberation process, which makes major demands on his time. The result is a rather slow decision-making process. This tendency is reinforced by the president's basic political philosophy of reformist activism rather than any commitment to broad political principles such as liberalism or conservatism. Yet, even in Arkansas his initial preference for an unstructured free-wheeling administration was gradually worn down by political realities. After his re-election in 1982, he reluctantly ceded more

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authority to a chief of staff. By the time he left office, he had begun to delegate quite widely, although the trend was admittedly reinforced by the demands of running for president.

These factors all suggest that Clinton's recent changes to his administration will not be completely successful, and are therefore unlikely to be his last. Neel's presence will probably lead to a tighter sense of priorities at the White House, with the budget and healthcare reform taking priority over all other issues. However, in itself, it will not overcome the problem of the president's tendency to micro-manage. Moreover, while spending more time outside the capital may help to bring a degree of indirect pressure to bear on Congress, most of Clinton's key political problems remain within Washington.

The more fundamental question concerns whether and when Clinton will abandon his current management structure, as his Democratic predecessors have been forced to do. One solution would see Leon Panetta moving from his post as budget director to take over as chief of staff once this year's budget process is over. As a former leading congressman of considerable political skill, Panetta would represent the sort of dominant figure who could initiate substantial management change.

Clinton's instinctive approval of his current management system, plus his lifelong loyalty to McLarty, will probably rule out such drastic surgery this year. However, if the mid-term elections of 1994 go badly, and the president's own re-election prospects in 1996 appear shaky, he may then be forced into a fundamental change before 1995 is out. The risk then is whether such a delay will make the changes come too late.

CONCLUSION: More dramatic internal change will be needed to refocus the administration, but if left until the voters have delivered their mid-term verdict, it could come too late to galvanise Clinton's political fortunes.

Keywords: NA, United States, politics, government, opposition, legislation

An Open Letter to Bob Dole



Indicting the industry for the excesses of a few is like indicting all public servants for the few who break the public trust.

By JACK VALENTI

As well you know, I am one of your friends and admirers and have been for many years. With that affection still intact, I read your speech wherein you find American movies to be depraved and otherwise unsuitable.

First, as a parent and citizen, I share your belief that some American movies are pretty awful. I wish these movies had never been made or exhibited. A few do step over that smudged line where the acceptable becomes unacceptable.

But then consider statements made by some public officials and assorted "divinely inspired" self-anointed custodians of morality. Some of what they say steps over the line. But they have a right to say whatever they choose, however meretricious or hypocritical.

The beauty of this land is that it is fortified by free speech. Not necessarily courteous speech or even rational speech. Some speech in both the political and private sectors is squalid, manipulative, coiled in trickery. No matter, this land is blessed with freedom, blessed with rights: the right to choose, the right to oppose, the right to ignore, the right not to watch or listen, the right to say "go soak your head." And, I might add, a right and duty to be responsible for your actions.

I feel as strongly about freedom as you do, Bob. Like you, I served my country. Like you, I fought for my country. Like you, I almost died for my country. And like you, if my country needed me, I would do it again. Gladly.

Second, and thankfully, an increasing

number of films are inhabited by the civic virtues you and I care about; what William Faulkner called the old verities: love and honor, duty and fidelity, pity and pride, courage and compassion. I'm proud of that. Of course, when more than 400 films are produced annually, some are bound to be mavericks, slouching outside the assumed normalities, disconnected from the daily moral compass that guides the great majority of decent Americans. These are the same kind of folks who live and work in the movie community, who go to church, do good works in their neighborhood, who try to instill in their children values that will shield them from the surly intrusions of the street, just like in Russell, Kan.

But you are doing something that Edmund Burke cautioned all wise public men not to do, that is, to indict an entire society. You scoop up all movies and drop them into a toxic waste dump. Should we exile from public approval all presidents because Richard Nixon committed the most heinous crime possible, dishonoring the people he had sworn to serve, thereby soiling the presidency and the Constitution? Should we condemn all White House assistants because some of Nixon's top aides went to jail? Should we lay a stained shroud over all in Congress because some members have proved to be venal?

Why, then, do you wrap all movies in the same defiled package when you are more lenient with deceitful public officials? More and more movies are in the marketplace that people age 8 to 80 are watching and enjoying. More and more of the creative community is hard at work trying to tell stories that can attract a broader audience.

I know you admitted you didn't see the movies you criticized, but please watch some of the current popular films, which

are delighting family audiences, like "Casper" and "A Little Princess." And yes, watch "Rob Roy" and "Braveheart," which contain violence (violence abounded in the 14th Century) but deal with man's passionate cry to be free and a willingness to die for that freedom, just the way you and I and millions like us put our own lives in peril to defend and sustain our country.

You say you're not supporting censorship. I believe you. Therefore, shouldn't you advocate that each American exercise his or her individual responsibility for their choices? Do we want some government agency to be our national nanny? Let's urge parents to keep their children away from movies they judge to be blighted. We have a rating system that informs parents which films deserve parental scrutiny. It offers advance cautionary warnings to parents. We alert parents not to let their children see an R-rated movie that parents don't approve. No other industry has taken on such an obligation to the parents of this country, and no other industry turns away revenues in order to redeem its pledge to parents.

Meanwhile, what is needed in this free and loving land is leadership to confront head-on the aching problems that aren't so easily fixable with speeches, but cry out for a real crusade: abject poverty, too many babies having babies, too much fear, too much drugs, too many guns, a shaky economy, lack of discipline in too many schools, abandonment of responsibility by too many parents and armed nuclear weapons in faraway places. A lot of Americans (in the movie community and elsewhere) would enlist in that crusade.

With respect and affection, I am sincerely yours—Jack Valenti.

Jack Valenti, former special assistant to President Johnson, is chairman and chief executive officer of the Motion Picture Assn.



MOTION PICTURE ASSOCIATION
OF AMERICA, INC.
1600 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
(202) 293-1966
FAX (202) 296-7410

BARBARA DIXON
VICE PRESIDENT
PUBLIC AFFAIRS

June 6, 1995

TO: Our Friends in the Community
FROM: Barbara Dixon

I thought you might be interested in the attached article
from the Los Angeles Times by Jack Valenti.

FGI
Best explanation
Daniel

Meng Xmas
from Helsinki

add
 THE PRESIDENT HAS SEEN

12-28-94

Richard Rothstein

8036 Elden Ave.

Whittier, Ca. 90602

phone: 310-945-8950; fax: 310-945-5180

Orange County, In Plain English

1207 Words; For publication in the LA Weekly, December 22, 1994.

The Orange County debacle reflects California's notion that we can have high quality public services without paying for them; a fantasy driven by a tax revolt which continues to wind its cynical and hypocritical path through our times.

Orange County voted for Prop 13 which holds reasonable tax rates hostage to a minority veto; it voted for the Gann Limit which prohibits the state from increasing spending in step with real personal income growth; and it voted against 1992's Prop 137, which would have raised personal income taxes for the wealthiest Californians and permitted regular reappraisal of business property.

But now, Orange County's Transportation Authority wants a rail corridor between Fullerton and Irvine; school districts, like Capistrano, Laguna Beach and Saddleback want new classrooms and smaller class sizes; Santa Ana wants a larger courthouse, police want new cellular communications and firefighters want a new helicopter; Orange County's Health Care Agency needs new staff for tuberculosis control; and Brea wants to build a new community center.

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These are all reasonable projects, but should have forced a choice: either do without services which even Orange County considers essential or raise taxes to pay for them. Unwilling to face reality, Orange County and 187 co-conspiring cities, school districts and agencies decided to go into business on the side -- so profits from government-run private enterprise could subsidize public services.

Such socialism would never have been permitted if the County tried to open a supermarket chain in competition with Ralph's, or if it had gone into surfboard manufacturing to exploit San Clemente's cachet, or if it had chosen to market video games in Brazil. Instead, however, the County went into the money lending business in competition with banks and other financial institutions. Being inexperienced and reckless (characteristic of start-up businesses, most of which soon go under), the County expanded its new business by making loans to bad credit risks and harebrained schemers.

Few noticed, however, because financial terminology obfuscates simple reality: the County chose a line of business which superficially resembles legitimate government activity. "Buying" and "selling" bonds are convoluted ways of saying "lending" and "borrowing" money. A bond is only a piece of paper which sets forth terms of a loan. Bond "buyers" lend money to "sellers."

Government normally and properly borrows money; in other words, it "sells" bonds. Government borrows money for "capital projects" which last many years -- for example, roads are too expensive to be financed by taxes collected only in the year they're built, so government "sells" bonds, borrowing construction funds for repayment over many years of road use. Or government might borrow money by selling "tax anticipation" warrants (bonds); since property taxes don't get paid evenly but in big lumps on December 10 and April 10, government might properly borrow money in earlier months, repaying warrants when taxes come in.

Since government normally handles bonds on the selling (borrowing) side, when Orange County went into the entirely different business of buying bonds (moneylending), little attention was attracted -- it seemed like familiar government bond business. As long as Orange County made a profit in this new enterprise, residents believed they could have it both ways -- reasonable service without adequate taxes. Orange County's 1994-95 budget depends on interest income for 35 percent of its revenue, compared to only 25 percent from property taxes and another 25 percent from sales taxes and DMV fees. Put differently, Orange County was operating as though its property tax rate was closer to 2 1/2 percent than the one percent required by Prop 13. That's not unreasonable -- it's similar to honest tax rates in states where government is not financed by speculation.

Most experts agree that government can rarely compete successfully with private firms in free markets. Liberals may argue that government has a role in monopolistic or highly regulated markets -- like bus transportation or garbage collection -- but few claim that politicians have the expertise or flexibility to survive in purely entrepreneurial pursuits. So when Orange County tried to earn profits in the most competitive of markets -- mortgage speculation -- shrewd Wall Street operators saw their chance to take county taxpayers to the cleaners.

Clear away the opaque lingo of finance, and it's clear that Orange County simply got into the business of lending money for home mortgages. Ordinarily, such loans are safe. Profits come from setting interest rates high enough to cover real appreciation or national productivity growth (otherwise, banks would be better off lending to widget manufacturers) plus anticipated inflation over the life of the loan. Borrowers repay mortgages a little each month. As every homeowner knows, monthly payments initially consist almost entirely of interest, with the principal balance only slightly reduced until the mortgage gets closer to being paid off.

Here's where Wall Street's shysters came in. They convinced Orange County naifs to buy (remember, this means "lend") only part of a mortgage. Orange County could combine with other bankers, and split the repayments -- one would get the interest part and the other would get the principal.

For full-term mortgages, such splits (Wall Street calls them "strips") would make little difference. After thirty years, lenders who got principal repayments and lenders who got interest repayments would all be repaid in full. But this would not happen if, during the loan term, interest rates dropped and homeowners refinanced mortgages. Then, borrowers would pay off balances early and take out new mortgages from different lenders. In these cases, lenders entitled only to principal payments would make a killing, because principal which ordinarily wouldn't be paid until the end of the loans is now repaid early. But lenders entitled only to the interest payments would get burned, because interest payments, which lenders expected for the life of the loans, suddenly cease.

Loanbrokers persuaded Orange County's treasurer, Robert Citron, that interest rates would drop and homeowners would refinance mortgages. If this happened, Orange County could earn big profits by making loans (buying bonds) for "principal strips," partial mortgages in which the County would get repayment only of principal, not interest. Citron failed to consider that this scheme could work best if the same brokers convinced other lenders that interest rates would rise and mortgage refinancing by homeowners would slow. Otherwise, few would buy the interest-only sides of the mortgages and the scheme would collapse. This was a zero sum game which succeeds only for those geniuses consistently smarter than everyone else. Possession of an infallible crystal ball for future interest rates, however, was not the platform on which Treasurer Citron campaigned for office.

For a while, it worked: all scams do, because initial success is needed to whet greedy appetites and stimulate ever greater investments. In 1992-93, with falling interest rates, Orange County earned 8.52 percent on its loans. But last year, interest rates started to rise, mortgage refinancing slowed, and loans made (bonds bought) by Orange County stopped being repaid. Orange County, along with its collaborating school districts and other agencies, could no longer repay their own borrowings (like tax anticipation warrants) and bankruptcy resulted.

The obvious lesson has not yet been drawn. We can't have highways and schools unless we levy taxes to pay for them. The only insurance against a repetition of this or similar disasters is the amendment of Prop. 13 and repeal of the Gann initiative.

Leon Panetta's Burden

Earnest and Obsessive, Bill Clinton's Chief of Staff Is Plotting the Counterattack. But Can Anyone Save a Weakened President?



MID THE LANDSCAPE photographs, official certificates and mementos that clutter the wall, the picture is neither the biggest nor the flashiest. Yet it draws the eye as if Leon Panetta's West Wing office had been laid out with every intention of making the photo the room's centerpiece. In its shiny frame, a bulky, silver-haired figure stands elbow-to-elbow with a shorter, dark-haired man, both peering soberly downward—reading news of a death, perhaps, or financial calamity. The dedication, in a left-hander's boxy scrawl, seems to confirm the impression: "To Leon," President Clinton has written, "who taught me things that turned my hair gray."

Theirs is a relationship built on trial and travail.

And this December day has brought more yet. Surgeon General Dr. Joycelyn Elders, a favorite target of conservative attack, has overstepped the line again, creating the necessity—or is it the opportunity?—for the Administration to fire her. She is an old Clinton friend, an Arkansan and a black woman with the sympathy of many Democratic believers—all reasons that her ouster is a more than a little sensitive, and more than a little disagreeable.

It is the kind of task that inevitably falls upon Chief of Staff Leon E. Panetta. Far from trying to tidy this mess from arm's length, Panetta has chosen to announce Elders' dismissal from the most intimate vantage points, amid the flags and ministerial trappings of his own office. With the President conveniently in Miami, Panetta himself takes on the job of expelling a woman who many in the Administration now believe should never have been hired in the first place.

Panetta sits at one end of his work table in a customary pose, shoulders squared, arms braced as if he half expects the ceiling to crash down upon him, yellow pad and blue felt-tip pen arranged neatly before him. Panetta's political success, as a congressman, federal budget director and now chief of staff, owes much to his ability to convey two qualities: earnestness and warmth. The warmth is irresistible, bubbling out of him in a tumbling, cascading laugh, at the humor or absurdity of the situation. The earnestness resides in Panetta's eyebrows. Thick and bushy, they tilt upward as they rise toward the center of his face, suggesting that this is a man who mourns and forgives the sins and tragedies of a wicked world.

But there is something else there, too, today, in Panetta's comfortably rumpled face. As he undertakes to explain why Elders must be removed for suggesting masturbation might be taught to schoolchildren, there is a trace of embarrassment, a suggestion of unease and even a fleeting hint of confusion. Surrounded by questioners, partly obscured by a thicket of tape recorders and boom microphones, he shifts uneasily. He reddens. From time to time he looks down at his sheaf of papers.

Since Elders has a long history of explosive statements, he is asked, why was she fired now? Would she have been fired before a Republican electoral rout had raised pressures to move to the right? And why was she brought to Washington in the first place? Her comment, Panetta explains steadfastly, was just "one too many."

After eight minutes, he herds the reporters out, with self-deprecating asides and heavy sighs. One man tells him, "You're just lucky, Leon—'masturbation' is too long to fit into a tabloid headline." Panetta shakes with a silent laugh, blinks and playfully slaps the man's back. This is a terrible, woeful thing, his man-

By PAUL RICHTER

ner says, but we can do our duty and still try to get out of this with our dignity, too.

Leon Panetta's six months as chief steward of the Clinton Administration have been full of days that have been nearly as ugly as this one, and some that have been far worse. The requirements of his job are clear: Set right the mistakes. Remedy problems that have lingered for months or years. Turn the incoming fire away from the President, if necessary, by absorbing it yourself. But now, at the halfway mark of Clinton's term, these daily tactical questions are eclipsed by the looming strategic imperative. After the pratfalls and calamities, the victories and half-forgotten achievements of two years, this White House must set a course for the remaining half-term that can reelect a President severely weakened by an electoral disaster.

At a moment when Clinton needs to prove himself with deeds, the other side has seized Congress' power to initiate and act. When the President needs to make full use of the White House's control of publicity, his adversaries, all menacing flash and dazzle, have riveted the nation's attention. And when he needs, more than ever, the support of the public, Americans' confidence in him is again sliding downward.

"It's hard to imagine the White House and the Administration being at a lower point," says Roy Neel, who served as deputy chief of staff for the first year of the Administration, "and it's hard to imagine the Republican opposition being in a stronger position than they are now. It's going to turn. [But] whether it turns enough to get the President reelected is another question."

After six weeks of painful, sometimes angry deliberations that migrated among the Cabinet Room, the Roosevelt Room, the Oval Office and the presidential quarters, the White House senior staff has drawn up a short list of goals: Raise the President's stature. Show resolve. Trade a sprawling agenda for a short one. Act decisively and act irrevocably.

There is no mystery what this means. The White House needs to stick to the central themes of its governance, yet Clinton has often strayed from them, stepped on them, countermanded them. The policies need to reflect core convictions, yet the President moves from issue to issue as each captures his wide-ranging attentions. The Administration needs clear lines of authority and well-laid assignments, yet Clinton's eagerness to seek the counsel of many makes this difficult.

Most troubling, all of this sounds familiar. These goals and declarations have echoed throughout the West Wing since the boxes were unpacked on Jan. 20, 1993, and have been reiterated in a half a dozen "new beginnings." And they all have one thing in common: They may be addressed at the Administration as a whole, but they are aimed directly at the President himself.

Of all the tasks before Panetta, the most formidable is the most obvious. He must manage the boss. He must help the President save himself. "Leon," says Roy Neel, "is the key to making that work."

Paul Richter covers the White House for The Times.



Surrounding President Clinton, from left, Sen. Dole, Sen. Packwood, Panetta, Sen. Moynihan and former Treasury Secretary Bentsen.

No one comes fully equipped to be chief of staff, but Leon Panetta brought many points that recommend him for the job. In eight terms in Congress, he had proven his bipartisan skill by consistently winning huge margins in a Monterey area district that was split between Republican and Democratic voters. For four years, he chaired the House Budget Committee, a thankless and in many ways fruitless exercise that required bringing together liberals and conservatives on an outline of the annual spending plan.

Panetta's best friends in town were other Democrats, who knew him best for his obsessive work habits. Panetta lived for years in a Capitol Hill townhouse with three other congressmen, sleeping on a portable bed in the first-floor living room. None was a slouch, but Panetta always came home the latest and then complained if the others were making too much noise.

Clinton's choice of Panetta to head up the Office of Management and Budget came as a surprise. Known as a fiscal conservative, Panetta had been critical of Clinton's budget plan during the Democratic primaries. Three months into his term, he lamented before several reporters that the political outlook for Clinton's economic plans was dark—a burst of honesty that earned him a brief trip to the doghouse. Those scrapes, and the gloomy budget advice he dispensed in 1993 as the Administration's leading deficit hawk, were the reason for the inscription on Panetta's photograph with Clinton.

But Clinton liked Panetta's manner. Long respected by House Democrats as someone who would grind away unflaggingly for their interests, not just his own, he brought the same qualities to the Administration. He also had another surprising, even startling qualification: In his long years in Washington, his candor had

earned him almost uniformly favorable press notices, even from some of the grouchiest reporters in town.

Panetta has tangible achievements to show for his half-year at the White House. Where the President's meetings were once free-form, under Panetta they have a defined agenda, duration and cast of participants. They are carefully mapped out in advance on Panetta's yellow pad or that of a subaltern. Aides, who formerly assigned themselves to various projects with Clinton's encouragement, now need top-level clearance to do so.

"He has added a discipline to the process that wasn't there," says Tony Coelho, an old friend and former congressional leader who is now an outside adviser.

Eager to give Clinton the dignity and reserve of Ronald Reagan, Panetta has persuaded him not to extemporize at photo sessions and to conceal his legs under long pants when he jogs. In a White House that was pummeled for the ill-executed firings of travel office staff, Panetta has learned how to deflect any blame toward the federal bureaucracy.

And he has largely taken over the role of TV spokesman for the Administration. Although he has shed some of the openness that was his trademark as a congressman, Panetta radiates maturity for a White House that too often has projected callowness. This has enabled him to eclipse other top officials as the Administration's face on television.

At the same time, insiders worry that with other aides leaving, and his role as spokesman, policy-maker and business manager still expanding, Panetta may be stretched too thin. On the day after Clinton announced his middle-class tax cut, Panetta did seven television appearances. One sign of the conflict: Members of Congress, who had been delighted with the bet-

ter communications since Panetta's promotion, are suddenly finding it harder to reach him.

An indication of the Clintons' confidence in Panetta can be seen in how the First Lady has reduced her behind-the-scenes administrative role. In the last days of Panetta's predecessor, Thomas F. (Mack) McLarty, Mrs. Clinton held her own planning meetings on Saturday, fearing that otherwise the work would not get done. Now "she's pulled back," according to an aide.

A boyhood friend, McLarty has a relationship with Clinton that is as comfortable as an old sofa. In contrast, Panetta's relationship with Clinton, though congenial, is carried on at a greater distance. Only infrequently do they see each other in relaxed settings; Panetta has been invited—but apparently has never gone—to the Friday evening screenings at the White House theater that Clinton usually reserves for his closest friends. Panetta himself says that their relationship isn't as close as, for example, the Arkansans'. "There's a depth of knowledge there," he says, "that's sometimes hard to replace by a few months of working with him."

But that distance may be a strength, some aides say, if it makes their relationship more businesslike. Clinton's indulgence of his friends, after all, has produced a few problems for this Administration. Yet there are some who think the newness of this relationship resulted in the most conspicuous personnel failure of Panetta's term—his effort last September to reorganize the staff. Among other changes, Panetta wanted to divide the job of press secretary Dee Dee Myers and shift some duties to a new spokesman, Michael D. McCurry from the State Department.

Some aides believe that if Panetta had known Clinton longer, he would have anticipated that Myers would go over his head and protest the proposal. Which is exactly what she did, and when Clinton partially countermanded Panetta's orders, he felt "humiliated," according to one friend. Panetta saw this as a breach in the agreement he had with Clinton when he became chief of staff. (In mid-December, Myers announced that she would be leaving her post by the first of the year.)

The other criticism lodged at Panetta focuses on his role as supervisor of the 300-person White House staff. He has, some insiders argue, ignored talented staff (liaison Alexis Herman or staff secretary John Podesta) and failed to reverse the sharp drop of women in the senior staff. Indeed, aides complain that after moving too slowly to redefine the press secretary's job, he never fully delivered on Clinton's pledge to give Dee Dee Myers complete access during her final three months at the White House.

Despite the Myers incident, Panetta has moved with authority in reorganizing the staff, reducing the access between the President and some of the Arkansans who joined him in the White House. He sent Bruce Lindsey, Clinton's former law partner and longtime confidant who was given a free-floating role, to the White House counsel's office—a clear demotion. "There's been a shove there," says one official. "[Lindsey's star] has definitely fallen."

As the influence of the Arkansans has receded, so too has the presence of outside political con-

sultants such as James Carville and Mandy Grunwald, who helped lay broad strategy in the Administration's first year. George Stephanopoulos, senior presidential adviser, continues to counsel the President on a wide range of issues. But now his contacts with Clinton are arranged through Panetta, and some aides have seen signs that Stephanopoulos sometimes has chafed under the new arrangement. All of this points to the growing power of Panetta's office. "Leon" says Stephanopoulos, "is totally in charge."

Panetta spent a climactic 11 days of 1990 closeted in featureless brick military buildings at Andrews Air Force Base, southeast of Washington. Republican and Democratic budget leaders had exiled themselves to work out the now-infamous budget deal that capped federal discretionary spending and led President George Bush to his politically fatal agreement to raise taxes. With Republicans in one trench and congressional Democrats in another, Panetta displayed a stubbornness that still defines him for many of his House colleagues. Panetta had one refrain, numbingly unvaried. The calculations of Bush budget boss Richard G. Darman "were 'smoked,' he was always saying," remembers Rep. Norman Y. Mineta, (D-San Jose). "I never heard the phrase 'smoke and mirrors' as much as I did in those days."

Panetta's iron-pants obstinacy hasn't been reserved only for the Republicans in his Washington career. As budget director, he exasperated Democrats with his stony refusal to make room for public works and social spending. When Rep. Robert T. Matsui, (D-Sacramento), an old friend, called Panetta in 1993 to appeal for legislation to help troubled families, the budget director ended the conversation before it began. "He was not at all helpful," says Matsui. "He could be a real pain."

Because of that fiscal conservatism, Panetta was lumped with a group of moderate Democrats who resisted expensive Great Society solutions. Behind those convictions were his parents, who had emigrated from the Calabria region of Italy to Wyoming and then to Carmel Valley to run a restaurant and, later, a walnut farm. Fervent Republicans, they had scolded him for any sign of wastefulness in his youth. But Panetta has always had another set of impulses, more liberal ones, that these days sets him apart from such obvious allies as the Democratic Leadership Council.

Panetta began his Washington career as a liberal Republican, running the civil rights office for the Department of Health, Education and Welfare during the Richard M. Nixon Administration. For his determination to press ahead

with minority rights as Nixon embarked on his Southern strategy, Panetta was abruptly canned, a decision that ultimately led him to join the Democrats. As a congressman, he was a die-hard partisan of food stamp and nutrition programs, an advocacy that was also politically advantageous because of his district's big agricultural interests. Even now a passionate, some might say self-righteous, tone creeps into his language when he talks about the need to preserve programs for the poor.

For a month after the election, the White House staff grappled with strategic questions in a free-wheeling, shifting debate. Increasingly heated, these arguments burst into the open as staff members wrote—and leaked—memos that argued for more drastic staff changes, sharper strategy and a return to the principles of the 1992 campaign. The early meetings took place Saturdays in the office of communications director Mark Gearan, but the climax came in sessions that Panetta directed in his own office suite.

At an early stage, Panetta argued that the White House should push for areas of legislative compromise with the Republicans, to establish that this President could rise above partisanship

and get things done. That alarmed some colleagues, who feared that this approach had too much the air of appeasement and signaled Panetta's tendency, as former budget committee chairman, to look for a deal. Ultimately, Panetta came around to the general view that the House Republicans just wouldn't take any offer of compromise; they had everything to gain by simply shutting the Democrats down.

On the broader, final arguments, Panetta lined up with Vice President Al Gore and some economic advisers to push the idea of placing government reform and cutbacks atop on the agenda, while continuing to push for deficit reduction. The election's message was about the need to make government more responsive, they argued, and the worst thing the Administration could do to the suffering middle class was to start a tax-

cut bidding war with the Republicans that would trigger a spurt in interest rates.

But the other side was bigger and louder. Stephanopoulos and Deputy Chief of Staff Harold M. Ickes joined Labor Secretary Robert B. Reich and a scattering of lower-level officials in arguing that the first need was to do more for the middle class, including tax cuts and breaks for education and retraining. The weight of their side became overwhelming when the Democratic Leadership Council, often focused on deficit-cutting, abruptly shifted ground and joined in the call for tax breaks.

Some aides saw signs that, just barely out of view,

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**FOR Panetta,
the most
formidable task
is the most
obvious: He
must help the
President save
himself.**

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time, the Democrats, even with opponents in the White House, have controlled the national debate over what a modern government should look like. "When I came to Washington in the mid-'50s as a Republican," Hess explains, "we were the permanent minority party. We had accepted the tenets of the New Deal, but we were basically saying we can do it cheaper and more efficiently. We really were a me-too party."

Today, the morning after President Clinton delivered his 11-minute tax-cut speech, Hess is animatedly accusing the Democrats of becoming the "me-too party." The potential for a major realignment in American politics is grist for the city's professional pundits and political scientists. But Hess is equally excited about another development: Congress' ascendancy. "What has happened is incredible because of the degree to which it was produced by one person, Newt Gingrich," says the 61-year-old political scientist. "For the first time in our lifetimes, we are reverting to the system the Founding Fathers set up in the Constitution—co-equal branches of government. We have two competing agendas."

A senior fellow at the Brookings Institution, Hess has filled 11 books with his musings on the presidency, the media and Congress. He has worked under four Presidents, written a syndicated column and delivered countless lectures on American government. By now, he should be dulled to the predictable rhythms of national politics. But the Nov. 8 election, he says, "got my juices jangling. I'm suddenly finding it interesting again."

Hess is thrilled at the prospect of watching the next few years unfold. "Is Gingrich going to succeed, or is he going to self-destruct?" he says excitedly. "Will Colin Powell turn out to be a Republican? Are we about to have a four-way race for President in '96? Is there a way Clinton can pull it all together?"

"I want to know how it's going to end."

Leon Panetta

Continued from Page 19

Mrs. Clinton was again arguing that relief for the distressed classes, not deficit-cutting, must be this Administration's foremost goal. Alarmed at the outcome of the election, she was again raising her voice on policy.

At a final, decisive meeting, in mid-December, Alice Rivlin, Panetta's successor as director of the Office of Management and Budget, made a final plea for the cautious fiscal course. And Panetta, who had so often joined her, was now on the other side—the side he had come to believe better suited his role as chief of staff. The President's political well-being was now Panetta's foremost concern. Though he went along, says one aide, "you've got to believe, deep down, he still had those feelings for the other side of the argument, too."

FEW HELD PANETTA RESPONSIBLE for the Democrats' November massacre, but that didn't spare the chief of staff from having to sit patiently as strategists, state officials and congressmen dropped the blame at the feet of a numbed President and staff. By a mid-December meeting with state chairs of the Democratic National Committee, Panetta had had enough. He rose to say "he just didn't want to talk about it—he didn't want to hear about it anymore," recalls Bill Press, the California party chairman. "He wanted action."

And it was coming, because before the end of December, the new Panetta-supervised strategy was in place.

It called for Clinton to elbow his way into the debate with proposals that appeal to anxious working families and reform-minded Ross Perot sympathizers, but with a fiscal and social restraint that would position them closer to the center than the Republicans. Congressional Republicans would thrust with demands for, say, radical welfare reform; the White House would parry with charges that orphanages were cruel and Dickensian. As the year passed, the Administration would gradually assemble

compromise victories on bills that almost cleared the 103rd Congress: on air pollution, toxic waste, telecommunications, maybe even the line-item veto. Clinton would pursue issues such as lobby and campaign-finance reform to show that he was now taking his cues directly from the public, rather than from the tarnished congressional Democrats. He would refine his communications through ideas that were clear, simple and few, and through actions that conveyed his central beliefs.

"If there were a silver lining in the dark cloud of the election, it's that we are going to be better able to define ourselves by the battles we fight," says Panetta. "[Now] the Republicans have to be tested as well." While insisting that the election rebuff was not entirely because of failed communications, he admits that it is essential that the White House start getting across its message. "We're at a time when it is not enough to just do good government," he says.

Still, serious obstacles stand in the way of all of these objectives. The White House communications effort has been under almost constant revision, yet the same mistakes continue to creep in. Officials vow they have learned not to obscure their own message by doing too much in one day. Yet, on the same day in December that the Senate passed the General Agreement on Tariffs and Trade treaty, Clinton announced plans to spend additional \$25 billion on defense. "They're still moving from issue to issue like a horned butterfly moving from flower to flower," says a former Administration official.

Panetta's efforts to get the President to focus on a short agenda have been hampered by Clinton's habit—perhaps laudable but counterproductive—of adding more and more items to his short list of goals. Even Clinton's much-praised speech to the Democratic Leadership Council in early December drifted from his focus on middle-class assistance to a discussion of his objectives in education, early childhood and national service program.

More worrisome to De-

mocrats is the White House's seeming inability to craft a long-term strategic plan, stick to it and followup with actions that the electorate are likely to remember. In contrast, the new Republican leadership has seized on a range of simple deeds that illustrate their views, from selling a congressional office building to slicing staff. The White House, says Democratic pollster Peter D. Hart, needs one 24-month plan, not "24 one-month plans."

Panetta was hired in part to improve the White House's congressional tactics, and he has. In the aftermath of the election, however, this will be much trickier. Indeed, while White House aides exult that they are now freed from the burden of following the Democratic leadership of Congress, there are signs that congressional relations are devolving into a three-way war between the White House and the two parties in Congress. Rep. Richard A. Gephardt (D-Mo.), the House minority leader who has strong personal ties to such White House aides as Stephanopoulos, stole the White House's thunder by coming out with his own version of a middle-class tax cut two days ahead of the President's announcement.

Relations with the GOP are likely to be ugly, even by historic standards. It is Panetta's bad luck that the new House Speaker is a man who has nourished a grudge against him since the two battled over a contested Indiana House seat in 1985. Rep. Newt Gingrich has accused Panetta of presiding over vote fraud when he chaired a committee that recommended the seating of Democratic Rep. Frank McCloskey. Gingrich frequently refers to "Panetta stealing it." Asked on one occasion if he personally blamed Panetta, Gingrich replied: "Panetta—personally, I mean he... deliberately stopped counting the votes when we had enough outstanding to win."

But maybe greater than any of these specific complications is another threat: irrelevance. As the Republicans unfurl their budget and agenda this month, the White House budget may be

soon overshadowed. White House proposals on health and welfare, for example, could well be ignored, caught between competing Republican and Democratic ideas. The White House-backed legislation that does pass on compromises may be too insubstantial to register at all with voters who were apparently unimpressed with the beefier trade, budget and social legislation of Clinton's first two years.

Panetta's friends in Congress, still among his closest pals, survey a wintry future and fret for him. The reaction of some, says one former Hill staffer, is "poor Leon—what a shame." But Neel, the former White House deputy chief of staff, says Panetta might actually benefit from having joined the White House when its fortunes were already at low ebb. By jumping in then, he may be shielded from catastrophe, like investors who buy stocks after a market crash. "There are few people who expect him to succeed, despite their respect for him," Neel says. "And in a weird kind of way, it's a liberating opportunity."

American Weimar

Continued from Page 21
supposed to meet the answers is a no-man's land where anyone who tries to occupy it is cut to ribbons. The present occupant of the White House, for example.

Bill Clinton—or perhaps more precisely, the phenomenon of Clinton—is his own contradiction. A pallid political portrait of Lefts (job training, student loans, tax credits for the working poor, health-care reform) and Rights (crime, free trade, line-item veto, welfare reform), he is curiously the most demonized figure in American politics since Richard M. Nixon, viscerally loathed by about a quarter of the country and apparently regarded with pitiful contempt by close to another quarter. Unlike Nixon's or Lyndon B. Johnson's, Clinton's demonization is not about politics. Whatever baseness or vulgarity may have eventually been attributed to Nixon and Johnson, the roots of their controversy lay in politics at its most vivid:

the anti-communism of the late '40s and early '50s, the civil-rights struggle and Vietnam War of the '60s and early '70s. What is unsettling about the overwhelming rejection of Clinton in the 1994 election is the extent to which it was *personal* and to which it demonstrates how, in the American Weimar of the '90s, Bill Clinton's persona is the landscape across which America tries and fails to come to terms with the last quarter-century in general, and the Vietnam War in particular.

Far more than the recent Cold War victory, which cannot be measured in any immediate terms but defense jobs lost, it is a generation-old Asian defeat, still brutally measured in lives lost, that traumatizes the country's memory. It is not unlike the way World War I haunted and formed German politics for decades. For those who hate Clinton, nothing so characterizes him as his conduct as a student during the Vietnam War, and how that conduct is emblematic of the counter-culture to which the new

Speaker of the House has grown fond of referring. Other matters, having to do with obscure real-estate ventures or allegations of womanizing, are peripheral. The Right that hates Clinton for not serving in Vietnam does not similarly hate Dan Quayle for the same—or, for that matter, Newt Gingrich. The difference is that Clinton's avoidance of military service is a subtle restatement of the 25-year argument that the war was bad, while Quayle's is a declaration that the war was noble. In the eyes of the Right, the hypocrisy of Quayle's position—his belief that it was a fine war for someone else to die in—does not discredit but rather absolves him. In contrast, Clinton remains the embodiment of something the country still cannot allow itself to believe: that it was an entirely useless war in which 58,000 Americans died for nothing.

Thus, in its election of Clinton, the American democratic process resulted in a conclusion from which the country itself recoils. This was compounded by Clinton's

moral and political failure during the 1992 campaign to speak forcefully about his opposition to the war, though it was a discussion for which an economically preoccupied country had as little enthusiasm as Clinton, and for which it probably never would have rewarded him with election. Rather it rewarded him in part for obscuring the matter; and now Clinton cannot escape the nation's fixed sense of him as someone who always takes the most politically expedient position on any issue and thus has no credibility, as opposed to Ronald Reagan, who is remembered as taking firm and even unpopular positions and therefore having a vision. This image of Clinton is so strong that people believe it even when it is plainly contradicted by the record. Having favored the inclusion of homosexuals in the military, having initially jettisoned a tax cut in favor of deficit reduction, having vigorously supported a trade agreement that was once opposed by the country at large and his party in particular, having pro-

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A hearty welcome to the sudden debate on racial preferences

Editor's note: The following is the latest Memorandum to Republican Leaders from the Project for the Republican Future, whose chairman is William Kristol. It is being released today.

"I think the worst thing that could happen is you take an issue like affirmative action or the whole issue of civil rights and race relations in this country and make it a political issue. That's the most dangerous thing that could happen. . . . On affirmative action, we clearly oppose moving backwards. Where you have discrimination, you need to have a remedy. That includes affirmative action."

— White House Chief of Staff Leon Panetta, on Meet the Press, February 12, 1995

"Affirmative action was never meant to be permanent, and now is truly the time to move on to some other approach. You can try to paint Republican opponents as having been captured by the far right and the like, but that's not going to make the Democratic Party the majority party again. In fact, there's a bad potential for this issue to drive a wedge right through the Democratic Party, if it doesn't yield some."

— Democratic strategist Susan Estrich, quoted in The New York Times, February 16, 1995

Ironies abound in politics; large issues have a way of forcing themselves into public debate in unexpected form, on an unpredictable schedule. We're now halfway through the Republican Contract's 100-day legislative calendar. The GOP House and Senate have already achieved some notable successes. But neither chamber has yet cast, to the best of our knowledge, a floor vote on any bill that directly undoes an existing government program. Until now, that is. And the bill and program in question aren't mentioned in the Contract at all. In fact, the bill the House is scheduled to vote on (and will likely pass) today, Ways and Means Committee Chairman Bill Archer's H.R. 831, would actually kill a large tax break.

Now as it happens, the tax break involved is preposterous and Chairman Archer's legislation is self-evidently necessary. It would pay for a permanent extension of the 25 percent deduction for self-employed health insurance costs. That's a good cause. But the bill's true subject is affirmative action. And we'd be for it, and for doing it now, even if it paid for nothing — because it represents a strategically intelligent first step in what should be a major element of the Republican Party's larger, post-Contract agenda: a rollback of the massive system of racial preferences and set-asides that has come to infect federal law and American life over the past 25 years.

Chairman Archer's bill repeals section 1071 of the Internal Revenue Code, which since 1978 has been interpreted by the Federal Communications Commission to

allow companies selling broadcast properties to "minority controlled" enterprises to defer taxes on any capital gain. Mr. Archer's principal complaint against this provision is that its World War II-era provisions have been cozily transformed by the FCC into an agency-granted tax break — a usurpation of Congressional prerogative and authority. He's right. But there's also a much deeper ugliness at work in the FCC

Not to put too fine a point on it, Viacom is engaged in a particularly vulgar, though perfectly legal, affirmative action scam.

program, as recent news accounts of an attempt by the Viacom Corporation to take advantage of it make clear.

Viacom, the world's second largest media and entertainment company, plans to sell off its cable television stations to a group of investors dominated by InterMedia Partners and Tele-Communications Inc., the giant cable company. It's a \$2.3 billion deal. But because, technically speaking, the investor of record in this deal is a minority, Viacom would be permitted to defer hundreds of millions of dollars — maybe more than a billion — in taxes. And the real purchasers here won't be inconvenienced at all; the deal's investor of record is allowed to cash out his \$1 million stake at a hefty profit after just a few years. He is, incidentally, one Frank Washington, who as a Carter Administration FCC attorney in 1978 designed the whole "minority ownership program" in the first place.

Not to put too fine a point on it, Viacom is engaged in a particularly vulgar, though perfectly legal, affirmative action scam. But it's not a new one; again, this particular FCC initiative has been in place, doling out more than 300 such tax certificates for 17 years. And the program isn't an isolated affirmative action grotesquerie, either. There is the huge 8(a) set-aside program at the Small Business Administration, for example. And hundreds of other programs and provisions, written into the sinews of federal law and administrative practice, make similar distinctions among American citizens on the basis of their skin color — with ever-increasingly questionable effects on their ostensible beneficiaries, and to the obvious detriment of race relations nationwide.

What's interesting, then, is that all of a sudden it seems possible that mere scrutiny of these programs will be enough to demolish them. Many of us long ago came to the conclusion that affirmative

action, at this point in American history, is virtually indefensible. What's striking about the current political situation, in the aftermath of November 8, is how many other people apparently think so, too. Consider this: Charlie Rangel, second-ranking Democrat on Ways and Means, could produce only 10 of 15 possible Democratic votes against Chairman Archer's bill in committee, and was reduced to invoking Adolf Hitler in his churlish post-vote press release. Or this: Susan Estrich, no right-winger she, tells the New York Times (as quoted above) that the statute of limitations on slavery and segregation has run out, and that affirmative action should be scrapped. Period.

Of course, it's easy for Ms. Estrich to speak so bluntly and candidly; she has no current institutional responsibility to the Democratic Party, whose alignment of constituencies is such that any debate on affirmative action may blow it completely apart. Which is why Leon Panetta (also quoted above) is so eager to deny that affirmative action is a legitimate political issue at all — what kind of issue does he think it is, we wonder? — and why he wants us to understand that any near-term political movement on the question of race preference will be movement "backwards."

Republicans are not obliged to alter or trim their principles for the convenience of Democratic Party voter mobilization, of course, which is why we say: move forward — it's the right thing to do. Men like California state assembly Speaker Willie Brown will decry any rollback as "totally and completely racist" (USA Today, February 16). Jim McDermott (D-WA) will try to muddy the waters with a substitute to H.R. 831 that blocks the Viacom tax break while otherwise preserving the FCC program. And Mr. Panetta will probably warn, again, that "discrimination" needs a "remedy." But the guessing here is that neither Congress nor ordinary voters will be fooled. Discrimination does have a remedy: it's illegal. Affirmative action — counting citizens by race, and allocating benefits accordingly — is something else, something that increasingly strikes more and more Americans of all colors as fundamentally unfair and incompatible with their own best traditions and highest hopes. Witness the spectacular early success of the California Civil Rights Initiative (CCRI), whose sponsors haven't even begun collecting the requisite signatures for

ballot approval in 1996, but is already considered a virtually sure thing for passage.

Congressional Republicans need not immediately reach for a CCRI-like magic bullet that would in one fell swoop erase every offensive jot of race consciousness from federal practice. Constructing such a law would be a complicated undertaking.

It wouldn't be a bad thing to have the affirmative action debate again and again, program by program and law by law, as the next several months go by.

ing, in any case, so thoroughly has affirmative action buried itself in our laws and regulations. And the effort need not be rushed. It wouldn't be a bad thing to have the affirmative action debate again and again, program by program and law by law, as the next several

months go by. It's only through such revealing debate, after all, that a full public consensus about the need to close our affirmative action era can be achieved. Bill Archer has done us the service of beginning such a responsible and level-headed debate by readying Congress, for the first time in a quarter century, to dismantle a race-conscious federal program. Republicans should continue the service by doggedly pursuing the subject in the future.

The sudden willingness, even courage, of American politicians to challenge what was until very recently unchallengeable — racial preferences — is a clear sign of how completely November's Congressional election has altered our national landscape. Almost every American political piety of the past few decades is now squarely on the table, open for debate at last. These are debates that the Democratic Party, defender of the status quo, can only fear. And those Republicans who might privately worry over what to do once our first 100 days are complete can take heart: there is a broader, just as popular, just as principled agenda available for our future pursuit. Establishing a system of color-blind law and public policies is a not inconsiderable case in point.

Affirmative wedging and hedging

BEN WATTENBERG

It's time for the W-word, again, but with a Clintonesque twist.

In Canada last week, President Clinton (according to the New York Times) "acknowledged ... that he had ordered a review of [his] administration's support for affirmative action programs." Indeed, said the president, "We shouldn't be defending things we can't defend. So it's time to review it, discuss it, and be straightforward about it." But, said

President Straightforward, he was determined to prevent the debate over affirmative action "from becoming another cheap, political, emotional wedge issue."

Goodness. A wedge issue, cheap and emotional. It's a statement in search of deconstruction.

We? Just who is the "we" that Mr. Clinton

refers to when he says, "We shouldn't be defending things we can't defend"? It's not me, I'll tell you that. In the realm of affirmative action, are we then to understand that Mr. Clinton himself has been defending things that can't be defended?

Like choosing his administration by quota — by race, gender and ethnicity — so it would "look like America"? Like supporting congressional redistricting based on race?

Like appointing and hiring an all-star team of quotacrats to fill the civil rights slots in this administration, hailing from the NAACP Legal Defense Fund, the American Civil Liberties Union, the National Center for Lesbian Rights, the National Women's Law

Center, the Puerto Rican Legal Defense and Education Fund and the Mexican American Legal Defense and Education Fund? Like appointing Mary Frances Berry as chairperson of the U.S. Commission on Civil Rights, she who has written that "civil rights

laws were not passed to give civil rights to all Americans ... [but only] to disfavored groups [such as] blacks Hispanics and women"?

Like the 50 percent women-minority quota promulgated by his appointees on the Federal Communications Commission, for 1,000 new licenses, at 60 percent below-market value? Like his health care plan

that pushed forward minority doctors to train for medical specialties while other doctors would be disproportionately tracked into general practice? Like his administration's support of retroactive enforcement of the 1991 Civil Rights Act (rejected by the Supreme Court, 8-1)? Like his Justice Department's demand that banks approve loans for minorities at below-market rates, with grants to cover down payments (which has the effect of raising interest rates on nonminorities)?

Moreover, why is taking up the issue of affirmative action/set-asides/preferences/proportionalism/quotas — "another cheap, political, emotional wedge issue"? Does this mean that the quotacrat assault

on merit over the past quarter-century is not important? That opposing it is unclear? That it hasn't helped spawn some of the most bizarre and corrosive forms of politically correct multiculturalism?

And, anyway, how come the president chose to order a review of affirmative action right now? Hasn't he been in office for two years? Could it be that the Republicans beat him to the punch and are already brandishing a 32-page report by the Congressional Research Service, listing 160 federal laws and guidelines that grant preferences to "protected" groups, including Tongans, Sri Lankans, and in one case, Hasidic Jewish-Americans?

And why is affirmative action/quotas/set-asides a wedge issue? Is it wrong to try to explain to the other party's voters that your party can represent them with greater fidelity?

Isn't that what's supposed to happen in a competitive democracy? Isn't that what Mr. Clinton and the Democrats have done regarding abortion, trying to peel off pro-choice Republicans?

And what is the political morality of the Clinton Special, the anti-wedge wedge issue? It's an old and neat trick: the accusation that your nasty opponent is using a wedge issue — becomes your own wedge issue! But this time it involves a nifty three-carom shot: accusing your opponent of using a wedge, using that charge as a reverse wedge, all the while moving toward your opponent's position! Thus, the Clinton "review," I bet, will lead to at least a cosmetic rollback of affirmative action, and hopefully more than that.

This administration has plenty to roll back. And it will do so because of that great tool of real democracy, the wedge.

Ben J. Wattenberg, a senior fellow at the American Enterprise Institute, is a nationally syndicated columnist.

JOHN LEO

Foster furor bears a reminder

The nomination of Dr. Henry Foster is the best news in years for people who oppose abortion on moral grounds. To the amazement of both sides of this long dispute, it has revealed that a great many Americans really don't think an abortion practitioner ought to be surgeon general.

Especially since C. Everett Koop served in this office, it has become clear that the main function of the

The public's resistance to Dr. Foster is based on a very simple premise: that an administration stacks the deck in favor of abortion when it names an abortionist to a job known primarily for its moral preaching.

office of surgeon general is moral exhortation. On the basis of popular reaction to this nominee, the nation wants its medical preaching done by someone who comes to the job with cleaner hands than Henry Foster.

Proponents of abortion have been blindsided by this, largely because they came to believe their own press releases that only a tiny fringe of "out of the mainstream," "anti-choice" zealots still resist the hardening pro-abortion consensus.

What the pro-choicers rarely acknowledge is that the nation is much more troubled than that about abortion. Depending on how the pollsters frame their questions, up to 75 percent of Americans have moral objections to abortion on demand. Because Donna Shalala and her staff don't seem to know any of these people, they think what everyone in their circle thinks: Abortion is a non-issue now.

This is a bit like the embarrassment suffered by The Washington Post when it failed to notice a huge anti-abortion rally a few blocks away because nobody on staff seemed to know anyone who planned to attend. In some tight little circles, it takes a huge act of imagination to notice what the rest of America thinks.

The public's resistance to Dr. Foster is based on a very simple premise: that an administration stacks the deck in favor of abortion when it names an abortionist to a job known primarily for its moral preaching.

This reaction has been obscured, in part, by Dr. Foster's apparent inability to come clean on the number of abortions he has performed, and by the news that he performed some other ethically dubious oper-

ations before 1974: the sterilization of four healthy but mentally retarded women.

But this has just reinforced the strong feelings about Dr. Foster: It has associated abortion with furtiveness, evasiveness, and an apparently casual attitude about involuntary sterilization.

Dr. Foster is not going to be surgeon general, but his nomination has accomplished two things: It assures us that the next surgeon general will be someone who has no record of performing abortions, and it opens the door to the use of stigma as an organized anti-abortion tactic.

Stigma doesn't get very good press in America. The left keeps insisting it is an attempt by the powerful to assail the behavior of the powerless. But the left conducts stigma campaigns of its own all the time — against smoking tobacco and wearing wearing fur, for example. We are on the brink of a broad effort to restigmatize easy divorce and the intentional bearing of children out of wedlock. Why not a campaign to stigmatize something even more dubious: solving a problem by killing a developing form of human life?

Some anti-abortion activists have been pursuing a stigma policy by publicizing the names of abortion doctors. Nothing wrong with that, unless the effort veers over into the harassment of families and threats against doctors' lives. It's probably true that many doctors have stopped performing abortions out of fear of quasi-terrorist tactics against them. But many more doctors are shying away because of the stigma.

The truth is that abortion is generating a generally bad odor in the medical profession, in large part because doctors understand very well that it is a morally dubious procedure. Dr. Ralph Hale, executive director of the American College of Obstetricians and Gynecologists, estimates that more than half of the group's 35,000 members have performed abortions in the past, but only a third are doing abortions now. That would be roughly 5,000 OB-GYNs who have stopped doing abortions. Some are older doctors with patients past their childbearing years. But these older doctors are not being replaced by younger ones as eager to do abortions. Is this because they are all terrified of anti-abortion violence, or is the shame of performing this operation beginning to take a heavier toll?

The current effort by pro-choicers to force medical students to learn how to perform abortions is a way of saying that the money to be made in performing abortions is not drawing enough doctors into the field.

Anti-abortion forces would be better off abandoning harassment at the clinics and the futile efforts to get an anti-abortion amendment or Supreme Court ruling. What we need is steady moral pressure, built around stigma, to reduce the number of abortions and to depict abortion as a primitive form of violence that society will eventually outgrow, just as it outgrew infanticide and slavery.

This would mean no state funds at all for abortion, and no more state-supported abortion festivals like the population conference in Cairo. The state would have to stay totally neutral, and not pretend, as it did in the foolish Foster nomination, that the issue is somehow behind us.

John Leo is a contributing editor of U.S. News & World Report and a nationally syndicated columnist.

Edwin M. Yoder Jr.

Ask Why His Black Critics Are Angry At Justice Thomas

According to a fascinating Washington Post report by Kenneth Cooper and Joan Biskupic ["Thomas's Unwelcome Opinion," news story, July 22], Justice Clarence Thomas has snapped the patience of other black officials.

The last straw was Thomas's 59-page opinion in a recent voting rights case. Thomas joined in the court's refusal to order a Georgia county to switch forms of government. He went on to write a blistering and bitter attack on the "racial gerrymandering" of congressional seats (the so-called "majority-minority districts"). Thomas's view, if adopted by the court, would probably unseat several black incumbents. Rep. Cleo Fields (D-La.), one of those incumbents, observed that Thomas had now gone "beyond the call of duty to be dissociated with the civil rights community."

Ted Shaw, director of litigation for the NAACP's Legal Defense Fund, complained that Thomas is "hostile to the Voting Rights Act as it has been construed." Shaw is right, but a crucial qualification lies in those words, "as it has been construed."

None of Thomas's disappointed critics went beyond ad hominem comments to meet his arguments head-on, however. Is that because they are contemptible or because they might be hard to rebut?

In his *Holder v. Hall* concurrence, Thomas analyzes the process by which the Voting Rights Act of 1965—originally designed to ensure blacks the right to register and vote—evolved into something quite different: a charter for a political spoils system that, Thomas charges, tends to "balkanize" the nation by race. There is no doubt of the benefits, from one point of view, of this balkanization. In the 1992 congressional elections, the Justice Department compelled states with large minority populations to rig congressional districts to ensure a number of black or Hispanic seats.

With what warrant? Thomas thinks that result has been reached by judicial sleight of hand. The Voting Rights Act, he notes, specifically bars "proportional representation," the apportionment of seats according to racial proportions or percentages. Yet Thomas makes a case that precisely that sort of apportionment propels the recent creation of majority-minority seats.

Why would it matter if Thomas is right? Thomas is primarily concerned with the integrity of statutory interpretation, but it

would be naive to think his dislike of recent trends in voting rights construction stops there. "As a practical political matter," he writes, "our drive to segregate political districts by race can only serve to deepen racial divisions by destroying any need for voters or candidates to build bridges between racial groups or to form voting coalitions."

That is a weighty concern. Since the 1992 redistricting, attention has focused primarily on the gerrymandering of black

"None of Thomas's critics went beyond ad hominem comments ..."

voters into districts as peculiarly shaped as the North Carolina district that threads its way for more than 100 miles across the Piedmont, from the Virginia border to Charlotte. Far less attention has been paid to the other side of that gerrymandering—the dilution of black voters, hence black political influence, in the districts from which the black voters have been removed.

North Carolina's 3rd Congressional District, for instance, is now so thoroughly stripped of black voters as to be described by one knowledgeable observer as "lily white." As such, it is set up for eventual Republican capture; and few of the new Republicans elected in such districts show much interest in biracial causes or coalitions.

Thomas quotes Justice John Marshall Harlan to the effect that the choice is between a system in which black voters "have some influence in the election of all officers" and one in which they have "more influence in the election of fewer officers." Thomas asks whether this is a choice the courts ought to be making or are competent to make. Certainly it involves a judgment call. Incumbent congressmen like those who attacked on Thomas are quoted by The Post naturally favor the gerrymandering that affords them safe seats, but at some cost, it may be, to general black interests.

Instead of dismissing Thomas as a renegade, his critics might simply examine and answer his arguments. They might not like or agree with them, but sometimes it is the truth that hurts.

Stephen S. Rosenfeld

Clinton's Foreign Policy: Better Than It Looks

Edward Mortimer writes in the Financial Times that from afar in London he thought American foreign policy was looking up but that when he got up close in Washington recently, he was shocked to discover that criticism of Bill Clinton's international performance had become more widespread and scathing and was intruding upon his domestic prestige.

Mortimer put his finger on a defining contradiction of the Washington moment. Clinton can boast easily demonstrable success in the economy and at the least a principled pursuit of health care reform as well as signs of foreign-policy steadying—engagement with Russia and China, good trips to Europe, Bosnia consensus, Middle East progress, trade agreements.

Yet especially for his foreign policy, the president suffers low-to-middling standing in public and press opinion and even among many Democrats. Whitewater, his personal travails and the talk-show tattoo hardly seem enough to make the difference.

Well, he has bobbled. The circumstances have been most unpromising. The foreign-policy establishment's snobbishness toward a country boy has again been in evidence. Republicans have been partisan.

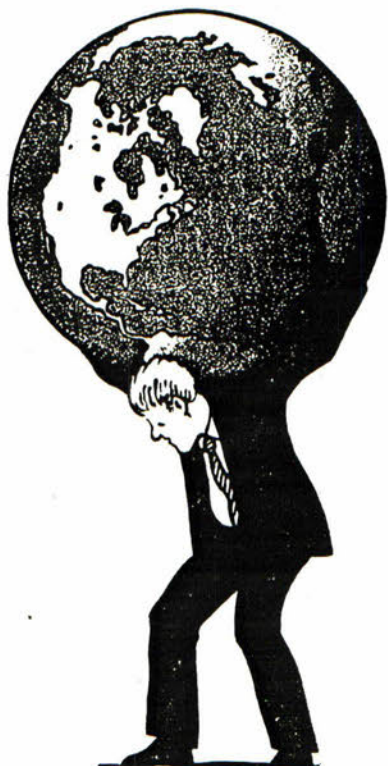
Take the criticism that emanated from the collected globetrotters of the GOP at its recent "idea week." Bush secretary of state James Baker briefly commended Clinton's work on Russia, the Middle East and trade. He then lavished attention on the stumbles list: Haiti, Korea, China etc. There's "no overall sense of direction ... and no sense of consistency," said Baker, "there is a tendency to view foreign policy through the lens of domestic politics ... and a seeming inability to understand the importance of American leadership."

If we were fighting the Cold War and dealing mainly with one big menacing country all over again, we'd definitely want to hear from the Republicans. But to hear Baker, who—if we're going to get down and dirty—let Yugoslavia disintegrate, let North Korea go nuclear, let Haiti's elected president be ousted: to hear Baker take out after Clinton on issues of post-Cold War disorder marks a memorable triumph of nostalgia and partisanship over reality and good sense.

Then to read, from Edward Mortimer's account of his own chat with Baker, that Baker thinks we should look at the world with a beady eye and practice "selective engagement": What is that but a fancy name for a policy otherwise dismissable as having "no overall sense of direction ... no sense of consistency?"

As for Clinton's "tendency to view foreign policy through the lens of domestic politics": This criticism verges on the comical coming from a secretary of state whose president found post-Cold War and post-gulf war foreign policy a reelection drag and all but abandoned the helm through a year's international storms. The secretary of state himself quit the State Department to run his chief's campaign from the White House.

The truth is that the new clutter is harder to get a handle on than the old threat. The American people, unconvinced that "vital" interests—as distinguished from desirable outcomes—are at stake,



BY BARRIE MAGUIRE

are plainly reluctant to pay much of a cost, regardless of what party is in power.

Bush brought his finely honed Cold War habits to the task, fell dismally short in key instances and dumped his failures—Bosnia, Haiti, Korea—upon his successor. Clinton brought to office an untested disposition to spin off what used to be called "Third World" issues to the United Nations. He then learned the hard way, especially by one day's heavy casualties in Somalia, that the institutions were not ready for the mission.

The core question is one that Clinton has not yet frontally addressed. Is it not smart to endow the United Nations with the resources to cope, subject to Security Council authority, with the next generation or two or three of international disorders? Now more than ever? The alternative is for us and our friends to take on the crises that matter most to us and to let the others flare. You could call it selective engagement.

Stanley Sloan of the Congressional Research Service, in a study of what he calls an emerging American "self-deterrence," joins others in seeing a gathering international instability likely to be met but not really checked by an American "coping strategy, muddling through."

Sloan judges that "President Clinton and his advisors apparently remain more wary of the political costs of the use of force than worried about the longer-term potential penalties of self-deterrence." Sloan worries about the anything-goes conclusions that irresponsible others might draw from American self-restraint and about a president who, seeing things drift, might launch an ill-advised showing of force to catch up.

To the question of how is the president doing, the answer is: better. To the question of how is the country doing, the answer is: unsure. In the interaction lies the fate of Clinton's presidency, and much more.

Steven Bailey

Chemical Weapons Ban: All Glitter, No Gold

Michael Krepon's argument that the Senate should ratify the chemical weapons treaty [op-ed, July 24] is wrong for three reasons:

■ The treaty is unverifiable.

No technical means can detect several activities that the treaty would outlaw. Consider, for example, production in clandestine facilities. A secret capability could be hidden amid chemical-industrial activity such as pesticide production, or it could simply be put in an isolated location—underground or in a mountainside perhaps. Moreover, such facilities can be quite small; a phosgene production plant producing 100 tons per year can fit into a space only 40 feet by 40. And there are no technical means to locate secret chemical installations so that they can be inspected.

Some other forbidden but practically undetectable activities are: retention of undeclared stockpiles (there is no way to know whether a nation has declared all its chemical agents or weapons, since they can be hidden almost anywhere), diversion of relevant chemicals from industry and transfer or receipt of illicit agents.

The U.S. intelligence community admits that the treaty is not verifiable. "I cannot state that we have high confidence in our ability to detect noncompliance with this treaty, especially noncompliance on a small scale," CIA Director R. James Woolsey has said.

■ The costs of treaty verification would be excessive.

New bureaucracies would be required at the national level to handle the immense reporting requirements on chemical production and disposition. Some nations might be unwilling or unable to pay. Russia's ambassador to the Geneva chemical talks, Sergei Batsanov, has complained that his country would have to pay more than \$100 million just for the verification provisions applying to the Russian chemical stockpile and production facilities. Other Russian officials have said the United States will have to pay the costs for implementing the treaty in Russia.

Personnel costs for inspectors alone would be at least \$145 million a year and could run to two or three times that much. Add to this the costs of support staff, a headquarters building, regional offices, laboratory equipment, training and other expenses. Transportation costs to visit facilities all over the world would be high and could even include a fleet of aircraft for short-notice inspections.

The greatest costs would probably be incurred by some 25,000 U.S. companies that would be affected by the treaty (many of which have not even heard of it). Reporting and book-keeping requirements would be expensive, and operations might have to be shut down during inspections for safety reasons. But the greatest cost to them could be the losses associated with industrial espionage. There is no guarantee against unscrupulous inspectors clandestinely collecting samples and conducting off-site analysis to glean information on the chemical content of U.S. products and the processes involved in making them.

Another cost would be to overall security. The treaty would inevitably create a false confidence that might in turn reduce commitments to defense

Taking Exception

research. Without support, researchers cannot devise chemical weapons detectors, antidotes or protective equipment necessary to deter chemical weapons use by other countries.

And, in the United States, there is a very strong possibility that the treaty would have yet another cost: erosion of the constitutional protection against illegal search and seizure. A court challenge to the treaty is likely, and the body of interpretive law that has defined this concept indicates it may succeed. The only analyses of the constitutional question appear to have been done by treaty proponents.

■ The most important nations won't join.

Several key nations have already indicated they will not enter into the treaty. Arab countries have said they will decline because Israel has both nuclear and chemical capability. North Korea is unlikely to join. Without participation by the nations most likely to have chemical weapons, the ban will have little meaning.

If banning chemical weapons possession is a worthwhile political goal despite its unverifiability, it can be accomplished by amending the 1925 Geneva protocol—an existing international agreement that bans chemical weapons use. This would allow the U.S. Senate to agree to a global ban on chemical weapons, while refusing to ratify a treaty that will entail big spending for little results.

The writer works at Lawrence Livermore National Laboratory.

Charles Krauthammer

Rationing—Just Wait

The health care reform contradiction.

Ever since the Clinton health care reform was unveiled 11 months and a dozen plans ago, it has been dogged by an obvious contradiction: It promised both universal coverage and control of exploding health care costs, now 14 percent of American gross domestic product. It was clear and much remarked that expanding coverage to 37 million Americans now uninsured, by increasing demand, would substantially raise health care costs.

More care means more cost. That is obvious. But there is another, less obvious and quite perverse contradiction buried at the heart of the health care debate: Better care makes for more cost too. The ordinary progress of modern medicine—quite apart from the cost of high-tech machines and tests and procedures—makes health care more and more of a fiscal drain.

"It is often difficult for lay people to appreciate that good medicine does not reduce the percentage of people with illnesses," writes physician-philosopher Willard Gaylin in a brilliant critique of the health care debate (Harper's, October 1993). "It increases that percentage." Good medicine keeps sick people alive, people with heart disease, diabetes, hypertension and other chronic diseases. And sick people are expensive. The dead are a burden to no one.

Even preventive medicine, that sacred health care cow, increases costs, points out Gaylin. Diphtheria

"Good medicine keeps sick people alive ... and sick people are expensive."

and whooping cough, once the two leading causes of childhood death, have ceased to exist. "But they were rarely expensive. The child either lived or died, and, for the most part, did so quickly and cheaply." Now that child "will grow up to be a very expensive old man or woman."

Because of these hard truths, the great health care debate of '94 will turn out to have been both preliminary and peripheral. Consider: Among the welter of disagreements now highlighted in the Senate debate, there is a clear national consensus for some reforms. Even the Dole plan mandates that health care insurance be portable (you retain it when you change jobs) and accessible (you cannot be denied it for a pre-existing condition).

Inevitably, however, such guarantees must increase health care costs. If the currently screened or dropped out are to be included and cared for, someone will have to pay for their care. There is no free lunch. Either insurance premiums go up, taxes go up or business pays through "employer mandates."

In the end, there is no way out of the dilemma: Both extending health care coverage and improving health care quality will increase health care costs. We must pay for that cost, by pushing yet higher health care's share of GDP.

Or we must ration. No one, of course, dares speak the word. There is not a politician who does not recoil from it. But after this debate—if it produces any bill, costs will increase—we will have the rationing debate. Having boosted medical costs even beyond the bank-breaking level of today, we will have to begin deciding which people with which diseases at which ages will be denied the public provision of which medical procedures.

Others have done it, and so will we. In Britain, if your kidneys fail and you are over 55, you are routinely denied life saving dialysis by the National Health Service. If you cannot afford private insurance or the out-of-pocket expense, chances are you die.

Even the Clinton plan had some rationing, though it had to be kept covert. It would, for example, have severely restricted the number of medical specialists. This is indirect rationing. If you reduce by, say, one-third the number of people who can do brain surgery, then many people who need it and would now get it will not be able to.

The Clintons defended that measure, tellingly, not as rationing but as an effort to promote currently fashionable primary care over "specialization." No one is ready to talk now about rationing. That talk is too unpleasant, the tone too pinched, the vision too Carteresque.

Instead, the politicians are holding a picnic and giving away the food. The Democrats are offering "health care that cannot be taken away," a new fundamental right of, literally, unfold cost. Even the limited Republican reforms would subsidize health care for more than 35 million Americans.

That costs money. Where do we get it? Gaylin is right: When this round is over and we are quite through giving away what we cannot afford, the real health care debate, the debate about rationing, will have to begin. And if, like Hillary Clinton, you think Round 1 was nasty, just wait for Round 2.

Jack Rosen

900 Sylvan Avenue
Englewood Cliffs, NJ 07632
201-567-4600

THE PRESIDENT

THE PRESIDENT HAS SEEN
8/11

Hitcher
We need to discuss
this —

B.

August 1, 1994

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

(Help!!!)
DMS

Dear Mr. President:

As I talk with people around the country about health care reform these days, two areas of resistance keep coming up:

- most people still have not grasped the importance of universal health coverage to every aspect of our national life and
- even fewer are comfortable with the idea of entrusting the federal government with such a sweeping new entitlement program

If we dramatically altered the level, style, and concentration of the debate by temporarily removing it from the partisan Congressional atmosphere, we might still reach a national consensus in our favor and ultimately enact the comprehensive package we know is needed.

To that end, I've been mulling over an idea I think might prove helpful in reshaping the current debate along more favorable lines. I suggest a *National Health Care Summit* similar to your very successful 1993 National Economic Summit that would allow you to

- re-shape the national discourse by refocusing attention on the problems in need of resolution and the policies being considered as solutions, not the politics of Democrat vs. Republican, President vs. Congress, etc.
- replace bandwagon efforts to enlist public support that are viewed as political marketing with an in-depth showcase for the logic and completeness of the health care reform package and your vast knowledge and commitment.

The Honorable Bill Clinton
May 12, 1994
Page 3

Health care isn't the only item you placed on our agenda this year. There is also the GATT Uruguay Round implementing The legislation which should be enacted this year. While there seem to be no easy funding sources for this important initiative, I continue to believe it must be financed under normal budget rules. If we truly care about the deficit, we cannot bend the rules each time it suits some of us. Editorials like the self-serving one in today's Wall Street Journal do not help us do our job. (You won't be surprised to hear that I have written to tell the Journal so.)

Then there's pension reform and worker retraining. I hope we can move quickly on your proposal to reform the Pension Benefit Guaranty Corporation (PBGC). You have done the right thing in proposing it. Too often we shirk our oversight responsibility to concentrate on legislating. Our "reward" for that is problems like the savings and loan crisis -- which could have been avoided. I also appreciate your efforts to overhaul our unemployment system. Focusing more on re-employment is wise. Much of our workforce will need retraining in the years ahead but we must also be realistic about the role the Federal government can afford to play. Training benefits that last 18 months may be more than we can deliver.

Finally, I understand you plan to send your welfare reform proposal to Congress in early June. Again, I know you are trying to be realistic in your expectations by downsizing your proposals. Unfortunately, those who want you and the Congress to fail will make this debate more partisan and contentious than it should be. But the opportunity to make real improvements is there.

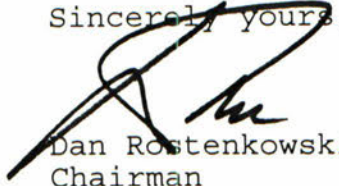
Mr. President, as I look back on 36 years of service in the House of Representatives, I can easily say there is no President with whom I have been prouder to serve. You've made an admirable start. You have to keep it up. Most Presidents have tried to improve our country. Some have let other issues and problems distract them. And some have let the fear of controversy deter the ambitious agenda they knew our country needed. Those other Presidents also faced a minority party but never one as diligent and uncompromising as the one you face today. Too often, this forces you to secure the support of 85 percent of your own party. That is a major, major task.

The Honorable Bill Clinton
May 12, 1994
Page 4

Regardless, don't let the naysayers have an effect on you. Stay in there, God damn it. Fight for what you think is right. We may not accomplish all that you would like, but we will certainly accomplish much more than we would have without your leadership.

With warm regards, I am

Sincerely yours,



Dan Rostenkowski
Chairman

DR/dcc

America's Falling Asleep

EVEN PILOTS FIND THEMSELVES SLEEP-DEPRIVED. AND
YOU DON'T HAVE TO BE A PILOT TO LEARN THAT APPROPRIATE SLEEP
PATTERNS — AND TIMELY NAPS — CAN BE LIFESAVERS.

By JANE E. BRODY

F

OR DECADES, I ASSUMED THAT SOME PEOPLE JUST NATURALLY FALL ASLEEP MORE EASILY THAN others and that I was simply on the far end of normal. I sailed through the day on five hours' sleep and fell asleep at night before my head hit the pillow — no insomnia for me. Then up again without an alarm at 4:30. A regular dynamo!

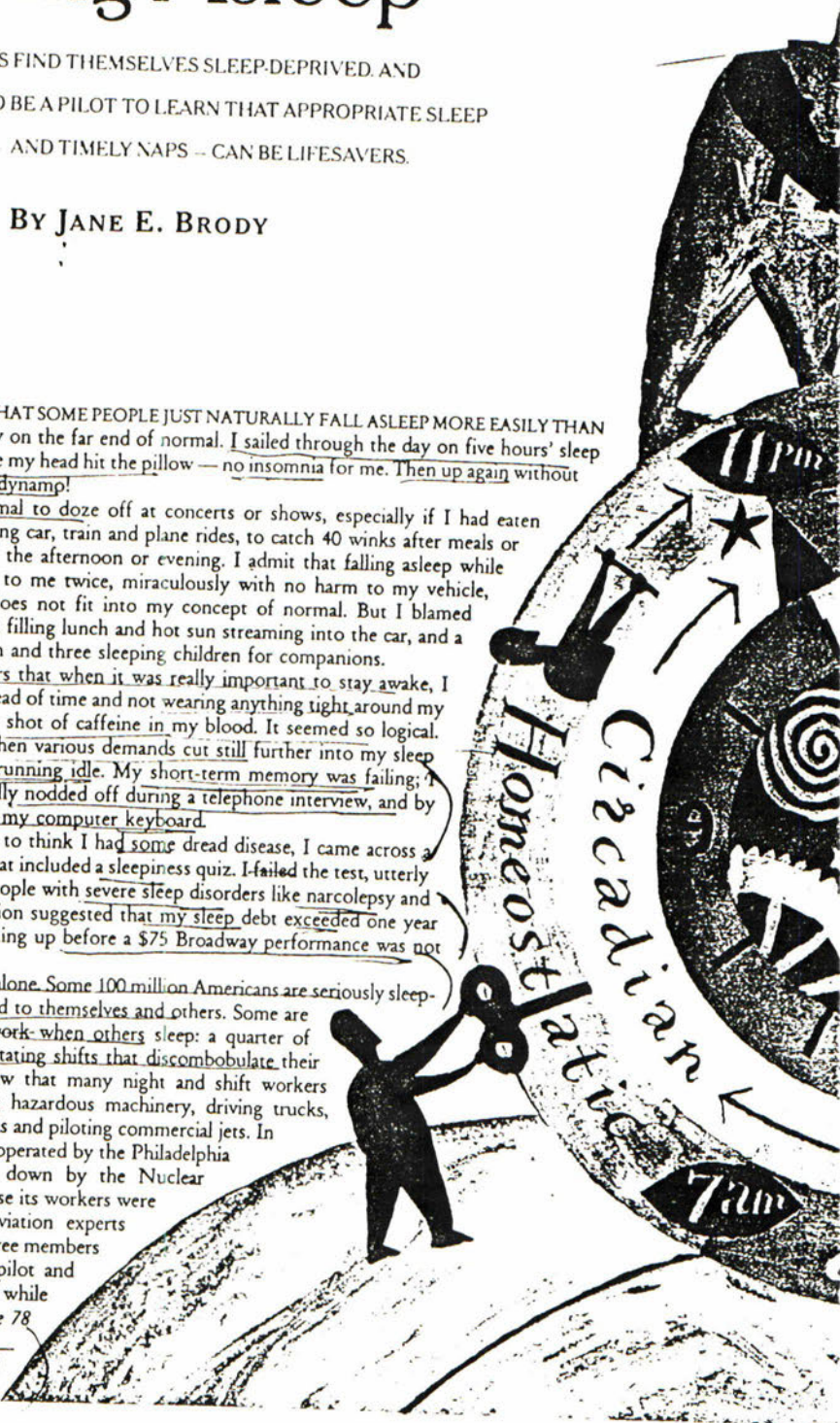
I also figured it was normal to doze off at concerts or shows, especially if I had eaten beforehand, and to nap during car, train and plane rides, to catch 40 winks after meals or when I sat down to read in the afternoon or evening. I admit that falling asleep while driving — which happened to me twice, miraculously with no harm to my vehicle, myself or anyone else — does not fit into my concept of normal. But I blamed extenuating circumstances: a filling lunch and hot sun streaming into the car, and a day of skiing, heater on high and three sleeping children for companions.

I learned through the years that when it was really important to stay awake, I could do so by not eating ahead of time and not wearing anything tight around my waist. Plus, I needed a hefty shot of caffeine in my blood. It seemed so logical. Until one day last winter, when various demands cut still further into my sleep time and I found my brain running idle. My short-term memory was failing; I couldn't concentrate. I actually nodded off during a telephone interview, and by noon I was asleep on top of my computer keyboard.

Just when I was beginning to think I had some dread disease, I came across a report on sleep deprivation that included a sleepiness quiz. I failed the test, utterly and completely. I matched people with severe sleep disorders like narcolepsy and sleep apnea. A quick calculation suggested that my sleep debt exceeded one year and that I'd better start catching up before a \$75 Broadway performance was not the only thing I missed.

I soon discovered I was not alone. Some 100 million Americans are seriously sleep-deprived and a potential hazard to themselves and others. Some are compelled by their jobs to work when others sleep: a quarter of employed Americans work rotating shifts that discombobulate their biological clocks. Studies show that many night and shift workers regularly fall asleep operating hazardous machinery, driving trucks, overseeing nuclear power plants and piloting commercial jets. In March 1987, a nuclear reactor operated by the Philadelphia Electric Company was shut down by the Nuclear Regulatory Commission because its workers were falling asleep on the job. Aviation experts admit that once in a while all three members of a flight crew — pilot, co-pilot and flight engineer — will fall asleep while their jumbo Continued on page 78

Jane E. Brody is Personal
Health columnist for The Times.



Jack Rosen

900 Sylvan Avenue
Englewood Cliffs, NJ 07632
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August 1, 1994

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Jack Rosen

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201-567-4600

- revive public interest and support by providing open information (which was lacking and criticized during the initial reform package development), focused debate (deriving from diverse and everyday Americans debating the subject together), and a demonstration of presidential leadership (of the kind that will be picked up and covered by news organizations live).

The event could be pulled together quickly, and fast tracked for August, taking advantage of the momentum provided by pending legislation. This could be followed up by a possible Part II of the Health Care Summit and deliver additional unbiased information to Americans as health care reform goes to conference committee. This would provide an open debate on the outstanding areas of disagreement. It would also provide a continuing vehicle to counter the negative perceptions of the presidency being created by Republicans and the news media. In this way, the effects of a National Health Care Summit will be even more beneficial in the long run, no matter what happens in Congress this August.

There could be an advantage to having the National Health Care Summit organized by an individual outside the White House political umbrella with a working knowledge of both health care and government. A citizen with an independent perspective on the subject and ways to communicate it would provide you with fresh thoughts on how to achieve a consensus for reform and enhance the non-partisan character of the summit itself.

You might also think of asking Bob Dole to serve in some honorary or lead position to further demonstrate the non-political nature of the event and to show that you are above partisanship.

I feel strongly that this forum will enable you to demonstrate enormous leadership on this issue. It will have a secondary effect of allowing you to talk directly to the American people without the filter of the press,. This will make it clear that you are interested in consensus building in order to draft the best piece of legislation possible, not as a result of more deal making.

Those of us who have come to know you on a personal level know how close this is to your heart and how urgent you feel it is for all Americans. It's high time the American people know this as well.

Sincerely,



JACK ROSEN

workers from shifts that start very early in the morning to those that start in the afternoon and then to ones in the night. Czeisler also says that by exposing night workers to enhanced bright light and having them keep their bedrooms dark during the day, their internal clocks can be fooled into thinking day is night, enabling them to get more restful sleep when they get home. A similar technique can be used for the elderly. A natural shift occurs in the circadian rhythm with age, so that that peak sleepiness occurs before 4 A.M. and results in middle-of-the-night awakenings. Exposure to enhanced bright light in the evening can shift the clock forward, helping the elderly get a good night's sleep.

MILLIONS OF AMERICANS TRY TO MAKE up for lost sleep on weekends. This only reprograms their internal rhythms and can induce Sunday night insomnia (and a miserable Monday), but it does not seem to cancel the sleep debt. A better plan is to start going to sleep earlier at night, pushing up bedtime by 15 or 20 minutes each week until you are sleeping enough at night to eliminate daytime sleepiness.

With apologies to Dagwood Bumstead, who for years has tried to teach his boss the virtues of sleeping on the job, a daytime nap is, in fact, the next best thing for those who cannot sleep longer at night. "Many highly productive people take brief naps during the workday," Dinges says. Winston Churchill sang their praises (so did John F. Kennedy but that's another story). Remarkable benefits have been observed from naps as brief as 15 or 20 minutes. James B. Maas, a psychologist at Cornell University, calls them "power naps." Though people may still feel tired after so brief a nap, research shows they are more alert and perform better on tasks that require attention, clear thinking and quickness.

In studies done with the permission of the Federal Aviation Administration, a NASA scientist scheduled sequential 40-minute naps for the pilots, co-pilots and flight engineers of commercial 747's over the ocean at night. Mark R. Rosekind of the research center at Moffett Field in California sought to prevent loss of alertness among the sleep-deprived, jet-lagged crew, whose performance typically sags at the end of a trip and during the fourth day of duty.

Currently, a crazy maze of rules govern a crew's duty, flying and nonworking hours, some of which could result in tours of duty longer than 20 hours without a sleep break and none of which take into account the crew's biological clocks. Rosekind's study addresses the effects of sleep deprivation on safety. The crew members, who slept an average of 26 of the 40 minutes, were much more alert following their naps. Rosekind measured physiological sleepiness by recording "microsleeps" — naps lasting seconds when the brain involuntarily dozes off — during the last 90 minutes of flight, including the descent and landing. Those who did not nap experienced twice as many microsleeps during this most hazardous segment of the flight.

"It doesn't matter how professional, how motivated, how well trained or how well paid the crew is," he says, "We're talking about human physiological limitations." Since completing his cockpit studies in 1991, he has been urging a change in in-flight sleep rules. "Up in the air, you can't pull over and take a nap."

It's true that we all don't fly 747's. But this problem of Americans not getting enough sleep is a good deal more serious to us as a working nation and as a people in pursuit of happiness than many realize. So figure out how much sleep you need — and then get it. If you can't, take a nap. Or your own plane may crash. ■

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S P E C

SLEEP

Continued from page 64

jet flies on automatic pilot. On one occasion, a flight attendant designated to keep the pilot awake fell asleep.

But the vast majority of sleep-deprived Americans cannot blame work schedules, jet lag or anyone but themselves. More than likely, the problem is attributable to the television set and VCR, an ever-lengthening workday made possible by the computer and modem, cellular phone and fax machine, topped off by a general desire to cram as much into life as possible. All of

which combine to make the eight hours of sleep most people need a pipe dream.

You could blame Thomas Edison, who himself spurned sleep as a waste of time and gave us the light bulb to extend the day. Thanks to the light bulb, you can swim in my neighborhood until 11 P.M., play tennis until 2 A.M. and grocery shop all night long. Or you can be out jogging or cycling through a dimly lighted park at 5 or 6 A.M. after a night on the town that ended at midnight or later. The typical household now has two working parents and no maid or extended family member to ease their burden, two or more

children who participate in a wide range of after-school activities and a perpetual round of household responsibilities and community and cultural activities. When something has to give, sleep is the usual silent victim. Silent, until daytime sleepiness gets serious.

IT IS NOT KNOWN HOW many ailments and ill tempers can be traced to sleep deprivation. Nor can anyone say precisely how much productivity is lost and how many accidents are caused by sleepiness on the job. But there are strong hints. The most notorious industrial disasters—the nuclear accidents at Three Mile

Island and Chernobyl, the gas leak at Bhopal and the Exxon Valdez oil spill—all occurred at night under the auspices of workers who were supposed to remain awake, alert and quick-thinking long after their natural bedtime. Judging from the nature of many vehicular accidents—like an absence of skid marks or evidence of swerving to avoid a collision, sleepiness is believed to account for more than 200,000 car accidents and 10,000 deaths in North America each year. Shift workers have significantly higher rates of gastrointestinal and cardiovascular disorders than ordinary day workers. Their sleepiness-in-

duced inefficiency, errors, accidents and health problems annually cost industry an estimated \$70 billion.

David F. Dinges, a sleep specialist at the University of Pennsylvania, says many top executives among the sleep-deprived falsely attribute their success to sleeping only three or four hours a night. Rather, he says, such short nights result in lagging alertness, diminished cognitive abilities and slowed reaction times: "There is more sleepiness in more people more of the time than ever before, and the consequences of human error have never been more serious. With bigger airplanes, more toxic materials

UPDATE: HEALTH CHOICE



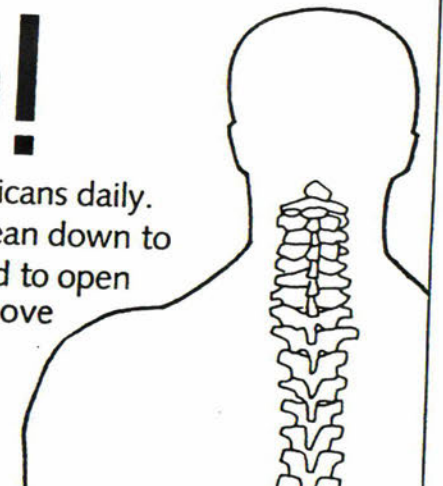
CARE FOR YOURSELF

FOR ANY WOMAN, that means taking the time to do regular breast self-examinations and follow up with periodic mammograms. At The Brooklyn Breast Center, we offer high resolution mammography, breast ultrasound and stereotactic biopsy (an alternative to surgical biopsy which involves no scarring or hospitalization and provides immediate results).



Ouch!

It happens to millions of Americans daily. You stoop to pick up a baby, lean down to grab a bag of groceries, or bend to open a window—and one wrong move can trigger back pain so debilitating that even the simplest of movements can become extremely difficult. Back trouble is the second most common reason (right behind colds) to visit a doctor, yet most adults with back pain find it difficult



and more congested areas, you make one mistake and it has catastrophic consequences." And job performance is only part of the story. The effects extend to personal life as well, ranging from the simple inability to enjoy it to the kind of impatience or frustration that destroys relations with others.

Sleep lab and family studies strongly suggest that the amount of sleep each person needs to be fully alert during the day is genetically determined, with some people fully rested after 5 hours a night while others need 10. But though 8 hours is the usual need, the average person gets only 7. And despite valiant attempts, people cannot train themselves to need

less. To complicate matters, few who are sleep-deprived recognize it. People who denied being sleepy were tested to see how long it took them to fall asleep at varying times during the day. Given the opportunity to lie down and close their eyes, most dropped off as quickly as a person with narcolepsy. This was especially true of college students, who need close to 10 hours sleep a night but average only about 6. "The brain sort of sputters when it's deprived of sleep," Dinges says. "Even after just one night without sleep, people have trouble maintaining vigilance, remembering things, responding to signals and paying attention. These are the building blocks of

complex cognitive functions. Those who try to get by on less sleep than they need can become seriously impaired."

TWO COMPETING forces regulate need and desire for sleep. One is the circadian pacemaker, popularly known as the biological clock, a brain mechanism programmed by cycles of daylight and darkness. A normally functioning circadian clock, as measured by a cyclical drop in body temperature, would have us a little drowsy at midafternoon (siesta time), sleepest from 4 to 5 in the morning and most alert a few hours before bedtime. The second force, known as the homeostatic, makes us sleepi-

est after we have been awake for about 16 hours — normally at about 10 or 11 P.M.

Dr. Charles A. Czeisler, neuroendocrinologist at Brigham and Women's Hospital in Boston, studied the interaction of these two seemingly contrary rhythms and has concluded that the homeostatic drive prompts us to fall asleep most readily in the late evening, but it would cause us to awaken after only three or four hours if not for the circadian rhythm kicking in during the latter half of the night. Our circadian clock, which helps us remain alert during the day, enables us to stay asleep for several more hours at night, granting us the "consolidated" sleep time crucial to a healthy body and

brain. Czeisler and his colleague Dr. Derk-Jan Dijk have shown that the only way to maintain the long period of sleep we need is to go to sleep 5 to 7 hours before the circadian peak in sleep.

This, Czeisler says, "is precisely the problem for shift workers, who try to sleep in the morning. They wake up after four hours, and even though they're exhausted, they cannot sleep." He advises 24-hour industries to lengthen the time workers are kept on shifts before rotating them, giving circadian rhythms a better chance to adapt. He also recommends a particular pattern of rotating shifts: if there is no sophisticated bright lighting system in the workplace, move

UPDATE: HEALTH CHOICE

Inoperable No Longer Means Impossible

Using high energy, pencil-thin beams of radiation from a linear accelerator, doctors can now destroy deep-seated brain tumors and other lesions, without the risk of an open-skull procedure and without general anesthesia. New York Methodist Hospital now has this highly advanced technique

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DÉJÀ VU continued from page 1

amounted to thinly veiled racism. According to them, the vandalism of the fence was a metaphor for Cornell's oppression of minority students. Eduardo Penalver, self-appointed spokesperson for the disgruntled Latinos, said, "I think the situation is one of intolerance towards Latino students, towards Latino culture—I would say racial hatred in a lot of the cases."

In retaliation for assaults on the fence, a group of extremist Latino students defaced the statue of Ezra Cornell, the founder of the University. (Ironically, a memorandum revealed that artist Martinez had originally wanted to box up the Ezra Cornell statue as part of his fence, but Cornell administrators had refused to give him permission.) The same students had previously started a fire in one of the dormitories to protest the lack of Hispanic professors in the English department. For two solid days, rallies erupted and boisterous chants reverberated throughout this campus, which had been tranquil since the takeover of buildings by gun toting black radicals in the 60s.

In addition to these agitprop actions, the group formed a human blockade around the main quad of the school. Chanting "No pasera," the protesters refused to let anyone pass. When one student attempted to cross the human chain, the group hurled epithets at him and some "peaceful" protesters shoved him against the wall.

In one of his tirades, Penalver railed against the University, calling it institutionally racist. "[Cornell] is a conservative institution that is passively racist, because Latinos are underrepresented, and the school perpetuates itself and does not create pressure for change," he said. "It is a mechanism for racism."

With radicals constantly pumping up the volume of the protest, the situation finally exploded. Approximately one hundred protesters stormed Day Hall, the main administration building. During the takeover of the building, the protesters injured two Cornell police officers. Captain William Boice, the second-in-command of the Cornell police, suffered torn ligaments in his knee. Officer Phillip Mospan suffered some minor injuries during the mad rush into the building. ("I was working the front doors and I was pushing [the protesters] back," Mospan said. "Suddenly, someone hit me from behind, grabbed my collar and jacket and then shoved me against the [side of the wall], injuring my elbow.") Another officer reported that during the skirmish, one of the demonstrators attempted to grab his pistol.

Inside Day Hall, Penalver and the rest of the protesters produced a list of demands to the University. The list contained the usual demands: more Latino faculty, more vigorous affirmative action programs, more funding for Latino organizations, etc. They demanded a meeting with President Frank Rhodes, but he was in Philadelphia on University business. Vice President Larry Palmer called Philadelphia and notified Rhodes of the situation. When Rhodes arrived, the students refused to listen to him, covering their ears and chanting when he tried to speak.

Eager to end the protest, which the university had actually helped begin by gratuitously commissioning the inflammatory artwork in the first place, Rhodes offered to meet radicals in private to discuss their list of demands. Fearing the chaos and confusion of a public meeting, he thought a private meeting would be more conducive to compromise. The protesters refused the offer.

For the next four days, the protesters remained in the building, while a cadre of outside supporters transported food inside and provided moral support.

The University at first temporarily suspended the students, but later backed down when the demonstrators agreed to evacuate the building in return for amnesty. Not one student faced any disciplinary action for violating the campus code of conduct or injuring the police officers, although the Cornell University Code of Conduct requires the administration to hold hearings in order to pursue any meaningful disciplinary action.

In addition, the University promised to keep a Puerto Rican flag flying outside the administration building for one week. The compromise also secured a meeting for radicals with Rhodes to discuss their demands.

Christopher Valdina, the editor of the conservative *Cornell Review* and a vocal critic of the administration's handling of the situation, said: "This campus has been paralyzed by the criminal violence of those who think their views are so compelling that they have the right to violate laws to promote them. We demand that the ringleaders of this assault on order be expelled from this university."

Administrators obviously disagree with Valdina. "We made some judgments and we thought it would be better to get

on with the business of the University instead of spending time, energy, and emotion in a hearing," Vice President of University Relations Henrik Dulles said. He also denied that race played a factor in the decision not to punish the protesters, calling it "irrelevant." Dulles claimed that, "a miscommunication between us and the students" was partly responsible for the takeover.

During one of the meetings with Rhodes, the Latino students demanded their own exclusive dormitory residence. Afraid that the protesters might return to their radical tactics, Rhodes reluctantly agreed to a separatist Latino Living Center. There is a precedent for the Latino Living Center under



CHAIN OF FOOLS AT CORNELL

discussion: separatist African American and Native American dormitories are already established at Cornell.

During an open meeting discussing the Latino dorm, Andres Roman, a member of the Living Center Committee, conceded that the dorm is "definitely not to integrate the Latino community with the rest of the campus. It is to provide a center for the Latino community." Radical spokesman Penalver, however, denied that the Living Center grants Latinos special treatment. "We have received special treatment in the negative sense in the past," he said. "We should be able to study our own culture and history."

In addition to the Living Center, the University has already blandished the protesters by hiring a Latino professor in the English Department. "The administration's actions have been as good as we could expect," says Cliff Albright, one of the demonstrators. "We can't complain right now."

Throughout this ordeal, the support given the protesters by the academic establishment has surprised many observers. Professor Jose Piedra, the director of the Hispanic American Studies Program (HASP) announced his full support for the demonstrators. He said, "If any student is punished, we promise, all of us [in HASP], to resign."

Besides the faculty, many members of the administration remained sympathetic. During an open meeting the Dean of Students remarked that Day Hall had not been damaged during the takeover. The comparative civility of the takeover seemed to suggest the comparative purity of the students' motivation.

This sentiment was also shared by one of the assistant vice presidents. During the middle of the crisis, he said, "The students are being very responsible. They're not trashing the place."

The Student Assembly, dominated by leftists, also refused to condemn the takeover and instead issued a resolution asking for lenience. The resolution stated: "The Student Assembly recognizes the unfulfilled needs of the Latino community" and demanded more funding for Latino-related activities. The Assembly also euphemistically described the takeover and the injuring of police officers as "various forms of protests." (This is the same Student Assembly that garnered national attention last year for passing a proposal to create a gay dorm.) The list of organizations that endorsed this resolution includes: *La Asociacion Latina*, Black Student Union, Mexican-American Student Association, *La Unidad Latina*, Lambda Upsilon Lambda, Lambda Pi Chi, *Latinas Promoviendo Comunidad*, *Simba Wachanga*, Black Women Support Network, Gay/Lesbian/Bisexual Coalition, *Senoritas Latinas Unidas*, Sigma Lambda Upsilon, Ujamaa Residential Community, *Sabor Latino*, Association for Students of Color and the Gays, Lesbians, and Bisexuals of Color. As someone remarked, "This was like a general assembly of the Balkans."

There is a reason for the homosexual groups' eager support of the Latino Living Center that is not immediately obvious from the popular frontism of their rhetoric. (In an open letter, the Gay/Lesbian/Bisexual Coalition declared, "We share many of [the Latinos'] goals and realize that this is a common struggle.") Although the Student Assembly passed the gay dorm proposal last year, Rhodes vetoed the resolution. The homosexual groups see the Latino Living Center as a stepping stone to a dorm of their own.

As president of *La Asociacion Latina* and the head of the protesters, Penalver has been a key figure in this controversy. But instead of being condemned for his actions, he has been aggrandized into a cult hero—the *Daily Sun* described him as "charismatic" and has generally sympathized with the cause.

Unfortunately, his incendiary rhetoric has divided the campus racially. Writing in a university-funded Latino newspaper, *La Lucha*, he declared, "Cornell's primary goal in educating Latinos is to inculcate you with *Gringo* values: individualism, selfishness, and social climbing." He described the white student body as "imbecils" [sic] and insinuated that Rhodes was racist. "I don't know Rhodes, but based on the treatment we received when we were sitting in Day Hall...and the fact that Rhodes pandered to the trustees, whom I consider racists, his actions show a lack of concern for Latino students."

Like Penalver, the artist Martinez has done his share to exacerbate racial tensions. Instead of calling for racial reconciliation, he urged the protesters to "take the enemy by surprise."

Looking back at the events, Vice President Larry Palmer conceded, "We made some mistakes [in handling the protests]...but it was a confused situation."

Palmer also acknowledged that conferring amnesty on the protesters may encourage more factious behavior from other disgruntled groups in the future. "I can't predict what will happen next, but there is always the danger that young students look at our [the administrators'] actions and behavior, instead of our words," Palmer said.

Not everyone in the minority community agreed with what had happened, although most realized that it would be foolhardy for them to criticize it openly. One Latino student, who spoke on the condition of anonymity, described the incident as "stupid and ridiculous." Many minority students conceded that they feared being ostracized—or worse—if they openly disapproved of the protests.

Another minority student said, "I'm considered a minority because I'm Asian. But I'm not oppressed by anybody. They [the protesters] are making mountains out of molehills."

And many Caucasian students expressed resentment for being labeled as insensitive oppressors. One white student wrote to the *Daily Sun* that she had initially supported the protests, but later rescinded her support because of virulent anti-white speeches.

After the furor had died down, Cornell sifted through a number of possible explanations for what had happened. Most observers were aware of the irony that the whole episode had been triggered by the administration's naive effort to curry favor with the multiculturalists on campus. If the road to hell is paved with good intentions, at Cornell it is also marked by an ugly fence that nobody wanted in the first place. Instead of opening a meaningful dialogue between the different ethnic communities at Cornell, the artwork segregated the racial populations. It became the Berlin Wall of separatists' fantasies, and they didn't even have to erect it themselves.

Although administration members deny that an effort to jump on the bandwagon of political correctness had any effect on their decisions, it is obvious that it did indeed have an influence. Once having opened Pandora's Box by commissioning the "artwork," Rhodes and the rest of the administration blew the lid off altogether by not pursuing disciplinary action against protesters. Those who watched the evolution of this campus donnybrook believe that it will someday be regarded as a dry run for militant gay activists who now have no reason not to make their move.

After nearly a week of protesting, two injured police officers and countless heated debates, the University finally removed the artwork in December. Unfortunately the deep scars and the exacerbated racial tensions won't likely disappear as quickly. The fence is gone, but the divisions it helped create at Cornell remain.

KENNETH LEE is a freshman at Cornell.



HATE SPEECH DEFINED:

THE RAVINGS OF
DR. KHALID
MOHAMMAD

By now, everybody knows about Khalid Mohammad's speech to an audience of faculty and students at Kean College in New Jersey on November 29, 1993. Mohammad's speech was so hateful and venomous that even Louis Farrakhan found it politic to dissociate himself from him. Despite massive media attention, very few people have had a chance to see the undistilled hatred that drives this radical ideology. The following extended excerpts from Khalid Mohammad's speech show the Nation of Islam and its leaders for what they are:

In the name of our Lord, the Beneficent, the Merciful, all praise is due to our Lord, the Lord of all the world. I bear witness that regardless to land or label or language, there is but one God. And so in the name of that one God who came as it was written and prophesied and He would come to seek and to save that which was lost. And we can find no other people fitting the description of the Bible prophesies of the lost brother, the lost sister, or the lost sheep, except we, the 50 million or more mentally and spiritually dead black men and women here in the hells of North America. And so we thank Him for coming and raising up His messiah and His messenger, the most Honorable Elijah Muhammad, and we thank the two of them for the man who we believe is the champion for the liberation and salvation of the black nation, that man who we believe is anointed and appointed for this hour of our resurrection and rise. I speak of none other than the Honorable Minister Louis Farrakhan, and so in the name of Master Fahirad Muhammad, the most Honorable Elijah Muhammad and the Honorable Minister Louis Farrakhan, I greet you my beloved and beautiful black sisters and brothers and others with the greeting words of peace, [inaudible], free the land and black laws for all black people. It is indeed my honor to be invited here on the Kean College campus and to speak to you on this very important topic and title. I did not choose it myself, but I welcome the opportunity to speak on this topic. The topic that has been given to me is the secret relationship between blacks and Jews. Now let's not get it confused. Let's act like we know. Hear what I'm saying? (laughs.) The subject, the secret relationship between blacks and Jews. I bring you greetings here at Kean College in Jersey from the Honorable Minister Louis Farrakhan, who sends his greetings of love and unity and solidarity...[as well as from] Minister Khadir Muhammad. Please, let us give him a black hand.

...Let me say to you before we even get started. If your seats get too hot for you, don't leave, just raise up and fan it a little bit and sit back down. Everything will be all right. And to the whites who are in the audience. Let me say to you before we even get started. It's going to be a rough ride, buddy. It's gonna be a rough ride. You better buckle in, buckle up guys, buckle your seat belts. If for any reason this auditorium becomes depressurized, automatically, oxygen masks will fall from the ceiling. Please make sure to fix the elastic band around your head firmly, and put the mask over your mouth and nose first. And then help the white person next to you. I didn't come to Kean College to tiptoe through the tulips. I didn't come to Kean College to pussyfoot.

Didn't come to Kean College to dilly-dally or beat around the bush. I didn't come to pin the tail on the donkey. I came to pin the tail on the honky. I came to speak the truth, whether you like that truth or not. I couldn't give a damn if you stood thousands on the sidewalk, passing out leaflets before my people come in here this evening, we have a right to evaluate and examine the secret relationship between blacks and Jews. Good evening. This is the truth hour, and don't you touch that dial. You stay tuned in...

...Now let's get started. Throughout the history of the practice, Jews and the African slave trade, Jews have been involved in the purchase and sale of human beings. This fact is confirmed by their own scholars and historians. Whose scholars and historians? (Jews)...Brothers and sisters, the so-called Jew, and I must say so-called Jew, because you're not the true Jew. You are Johnny-come-lately-Jew who just crawled out of the caves and hills of Europe just a little over 4,000 years ago. You're not from the original people. You are a European strain of people who crawled around on your all fours in the caves and hills of Europe, eatin' juniper roots and eatin' each other. You know nothing about fire. You know nothing about funeral science or nothing about embalming. You left your dead right in the caves with you and you slept with your dead for 2,000 years, smelling the stench coming up from the decomposing body. You know nothing about bathrooms and toilets and restrooms and sanitation systems. You did your No. 1 and your No. 2, your pee-pee and your doo-doo, which should be a don't-don't, right in the caves and hills of Europe. You slept in your urination and your defecation, generation after generation, for 2,000 years. You know nothing about fire. You knocked your animals in the head with clubs and boulders and bricks, or whatever you had at that time, you made or chiseled, or found already that way. And drug them back to the cave... dragged them back to the cave. And all of you would just gum them and eat the fur, the dirt, the filth, and suck the blood from the raw meat, and you still eat your meat raw, to this very day. While you live like this, this black man and black woman that you, in a condescending way, look down your nose at, on the Kean College campus. You're looking at the sons and daughters of your very mothers and fathers. To the whites who are in this audience, why you wouldn't even be here if it were not for the original black man and the original black woman. We are your mother and we are your father. Not only are we your mother and father biologically and genetically and historically, but we are the father and mother of all the disciplines, all of the sciences, everything that you have built your so-called civilization on...

Then said Jesus, who's talking, who's talking, let me stop right now. When I say Jesus up here, I'm not talking about no blond haired, blue eyed, pale skinned, buttermilk complexion, peckerwood, cracker Christ. When I say Jesus up here, I'm talking about the

Jesus that the Bible says his body would be like Jaspas. Another scripture says his body would be like burl. Another scripture says his body would be like fine brass, as though it had been burnt in an

oven. It says he would have hair like lamb's wool. I'm talking about that nappy hair. I'm talking about that good hair, before you fried it and dyed it and laid it to the side.

Before you got your scary curl. Before you got your temporary permanent. Before you got your blond wig running around Kean College, talking about blonds have more fun. You not having no more fun. The Bible said Jesus would have nappy hair. So where did these pictures come from with this stringy hair, straight hair, blond haired blue eyed, pale skin, buttermilk complexion, peckerwood Jesus. It's the white man. The white man's got a God complex. Pope Julius II, who...commissioned Michelangelo, and I ain't talking about no Teenage Mutant Ninja Turtle either. Pope Julius II commissioned Michelangelo to change Jesus from black to white. His hair from nappy and kinky to straight, weak and stringy. And so now we have a white Jesus, but the Bible says I beheld until the thrones were cast down. And the ancient of days did sit, and it goes on to tell you that he would have hair like lamb's wool and his body would be like fine brass, burnt in an oven. There are white people throughout different sections of Europe, to this very day, who make their prayers in front of a black Mary, and a black Jesus. Go to the Vatican in Rome, when the old, no good Pope, you know that cracker. Somebody need to raise that dress up and see what's really under there. When old Pope was shot, he didn't pray in front of no white Mary. *Life Magazine*, one of the big magazines, showed him kneeling down, making his prayers in front of a black Mary and black baby Jesus. And he wasn't in no hurry to get check out of here either. Talking about he's the vicar of Christ. The right hand of God. That he's going instantly to heaven, to paradise. Well how come when they shot that cracker, he didn't say, "Ooh, no, no, duh." [inaudible]. He didn't say that. They called in the best doctors they could get, because he wasn't anxious to go anywhere. Let's look at it. You with me? Let's look at it for a moment. Look at it. Brothers and sisters, as I move beyond that point back to John, the 8th chapter, the 31st verse, then said Jesus to those Jews who believed on Him. He said you shall know the truth and the truth shall make you free. The Jews answered Jesus and said how sayeth Thou that we shall be made free? We have never been in bondage to any man. Jesus goes on to say to them, and they said to Him, we be Abraham's seed, and we have never been in bondage to any man. Jesus answered the Jews and said...but you seek to kill me...Jesus said unto them, if God were your Father,

you would love me. Now that preposition is a strong preposition. If God were your Father, you would love Me, for I proceeded forth and came from God. Neither came out of myself, but he sent me. Why do you not understand my speech, Jew? Even because you cannot hear my word. You are of your father, the Devil. What did Jesus say? (the Devil.) You are of your father, the Devil. And the lust of your father, you will do. He was a murderer from the beginning and abode not in the truth because there is no truth in him when he speaketh a lie, he speaketh of his own. For he's a liar and the father of the lie...

Revelations 3 and 9. Revelations what? (3 and 9.) Write these scriptures down. We also had John 8th chapter, starting with the 31st verse, going, going, going on down to the 44th verse. Well, now we'll go to John, uh, to Revelations by John the Revelator. But Jesus in here too. Three and nine, you ready? Behold, I will make them of the synagogue of Satan. What does it say? I will make them of the synagogue of Satan which say they are Jews and are not Jews. What does it say? Behold, don't get hung up on behold. All it means is... look-it here, yo. The writer say yo, I will make them of the synagogue of Satan, which say they are Jews, but are not Jews. But do lie. Behold, I will make them to come and worship and bow down at your feet. And to know that I have loved you. Revelation 3 and 9 speaks of a people who would call themselves Jews, but who are not Jews, but who are of, according to Revelations, not Elijah Muhammad, not Louis Farrakhan, not Khadir, not Khalid, but according to Revelations, they do lie, they are not Jews, but they are impostor Jews. And according to Revelations, they are the synagogue of Satan the Devil. That's according to the Book. I'm saying, what am I gonna do, if the Book say it? And then Jesus just got through saying that these guys' daddy was the Devil. Jesus started pullin' limbs off the family tree. This thing is serious. No wonder they hate Jesus. No wonder they don't believe in Jesus. No wonder they crucified Jesus. It was the Jews who crucified Jesus. The so-called Jews of his day. They contended with Jesus on a daily basis...

These people are not the chosen people of God. They say that we are anti-Semites. How arrogant you are? No good bastard. A bastard is an illegitimate child of the father. You call us anti-Semites. How arrogant are you? There are some Semites in Africa. There are Semites, that are Arabs. Are you trying to make the world think that you're the only Semites in the world? You're anti-Semitic. Look at what you're doing to the Arab people. To the Palestinian people. You have dispossessed them. Disinherited them. They are now disenfranchised. Disheartened. Just dissed by you. You've driven them like vagabonds from their home. They are Semitic people. And you are anti-Semitic. The true name for Egypt is Kimit. What is the true name for Egypt? (Kimit.) Kimit. But the Greek, the freak, gave it the name Egypt. The root ethymologically of Egypt coming out of the Greek is Hiuptus, which means the land of the black and the burnt skin people. So don't you give me no Cleopatra Queen and get Elizabeth Taylor, some whore from Hollywood, screwing everything that ain't screwed down. Elizabeth Taylor is nothing but a white whore from Hollywood. I say she screws everything that ain't screwed down. You gonna get this white whore? And disgrace us? Insult us before the world. And portray an African queen in the image of Cleopatra using this woman, Elizabeth Taylor. What a shame. What lie...Jesus was right. You're nothing but liars. The book of Revelations is right. You're from the synagogue of Satan. You didn't wanna deal with my leader in a respectful way. You disrespected my leader, and so now, God unleashes on you his wrath and his judgment because you won't adhere to the torch light that is shining in your midst. And I'm one of his flame throwers, and I came here to burn your behind up. You say I'm anti-Semitic? If you are a Semite, I'm goddamit, whatever, I'm against whatever you are. Whatever you are, I'm anti. I'm saying, and I feel like that's kosher, buddy...

Even Jesus met with the Devil. They went up on a mountain. Even God met with the Devil. They talked

about Job, the servant of God...You just a damn lie. You never been in bondage in Egypt for 400 years. That's why they call us Kimitic. That's why they call us the Kimites. That's why you named us Egyptians. Black, burnt skinned. We're dominant, strong, you are recessive, weak. If you spent 400 years among us, we wouldn't even be able to recognize you now. We would've swallowed you up and annihilated you...

Many of you control the libraries. Liebraries. NBC, ABC, CBS, you don't see nothin', or makes sure we don't see. Warner Brothers, Paramount, huh? Hollywood, period. Some of your own Jewish historians have written books on the inordinate influence of the so-called Jews in Hollywood. Some of your own Jewish writers have written on it. You put these negative stereotypes out on black people. We always clowns on

booba on. He didn't wear his African clothes. He didn't wear Kinte crown. He didn't wear a red, black and green crown. He didn't wear mud cloth crown. He wore a yarmulke on his head. Boot lickin' for the so-called Jew. He said I...I, David Stinkins, I's the first, I's the first to repudiate Louis Farrakhan, the anti-Semite. He came on television, that's how he ran his political campaign. How many saw it? Hold your hands up if you saw it. You know I'm not lyin'. He wore his yarmulke and he said I was the first to repudiate Louis Farrakhan. Who you catering to Dinkins? Butt-dancin' for the white Jew, impostor Jew, vote. But this time, they let our boy down. This time, white Jewish Democrats, white Democrats in general, crossed party lines and voted strictly white. They said we believe that Giuliani will be a better nigger than Dinkins has been. And so he...he's so happy to get in office, we believe that he will be better. What about what came up out of New Jersey here...

Look brothers and sisters, don't let the propaganda machine of the white man turn you away from your salvation. Louis Farrakhan has the key to your salvation today and to our liberation. The counterintelligence program of the F.B.I. set up by Gay Edgar Hoover. You know Gay Edgar Hoover. Gay Edgar Hoover, don't act like you don't know what I'm talking about. Him and his boy, one of his top aides, one of his top aides, Clyde Tolson, talks about how they used to get naked and do Flamenco dances and stuff. How they would ride in the limousine, holding hands. And how they would always freak out with each other. And they had other boyfriends and would get angry with each other over the other boyfriends...

The Jews have told us the so-called Jews have told us ve, ve, ve suffer like you. Ve, ve, ve, ve marched with Dr. Martin Luther King, Jr. Ve, ve, ve were in Selma, Alabama. Ve, ve were in Montgomery, Alabama. Ve, ve, were on the front lines of the civil rights marches. Ve have always supported you. But let's take a look at it. The Jews, the so-called Jews, what they have actually done, brothers and sisters, is used us as cannon fire. They wanted to get certain laws struck from the books. And so they put us out front as the cannon fodder. And they founded Negro organizations. I didn't say black organizations. They founded Negro organizations. Let's look at it. You ready? The NAACP was founded by the white Jew. For much of this century, Jews have been a prominent element in the liberal wing of white North American...

They always tell us ve suffered like you. We, down South, one of us was killed right along with your civil rights workers down there. Please, give me a break with this. As it says here from "Broken Alliance," from the Jewish writer himself, who talks with them, who eats bagels with them, lox with them, who goes to the synagogue with them, who plays golf with them, who sits with them out and out of, and beyond our earshot, that they had a self-interest. That they were doing these things to use us as cannon fodder to get these laws cleared from the books, and as soon as they were cleared, to whatever degree, then they started moving against us and attacking us and taking the opposite position every time a issue came up that was in our best interests. And they pooled their money, for the most part, out of the civil rights organizations, when the civil rights organizations started standing up to them. This is the case, brothers and sisters. Who are the slumlords in the black community? The so-called Jew. Rundown, dilapidated buildings, huh? Water not working properly. Toilets not working properly. The plumbing is terrible. The heating is terrible. Big rats and roaches playing hopscotch all in the hall and stuff. Mosquitoes carrying ice picks. One of 'em sting you, you in serious trouble. The white slumlords, the white so-called Jew slumlords, and the other white slumlords. Who is it sucking our blood in the black community? A white impostor Arab and a white impostor Jew. Right in the black community, sucking our blood on a daily and consistent basis. They sell us pork and they don't even eat it themselves. A meatcase full of rotten pork meat, and the impostor Arab and the impostor white Jew, neither of them eat it themselves. A wall full of liquor keeping our people drunk and out of their head, and

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"Grand Master Historians and Esteemed and Venerable Elders and Masters of History," according to Khalid Mohammad:

Frances Cress Welsing

Yusef Bin Yokenem

John Henrik Clarke

(City University of New York, Hunter College)

Maulana Karenga

(California State University, Long Beach)

Ivan Van Cerdu

Sheikh Antidiop

James Small

(City College of New York)

Leonard Jefferies

(City College of New York)

Rosalind Jefferies

Nathan Hare

Julia Hare

Asa Hilliard Atavidlana

Jake Corretthers

Tony Martin

(Wellesley College)

TV. I love Martin, but I'm tired of us being fools for white folks. The only way we can get on is if we cuttin' the fool for the white man, and we always got to be a sissy before it's over. We gotta dress up in drag, so the white man can laugh at us. "Mens in Films," *In Living Color*. Look at it brothers and sisters. Dr. Jeffries was right, 100 percent right, when he talked about your influence in television, in radio, I'm adding that. But in the movie industry, in particular in Hollywood. But also are most influential in newspaper, magazine, print media and electronic media...They have our athletes in the palm of their hand. If you are an athlete, a star athlete, it is required of you that you be apolitical. You can't be black. You can't stand up for your people: You must be apolitical. And normally, they will give you a white woman. All of them with the exception of just a few of the big names, got a white woman. Susie, Kathy, Cindy, Dana, and Heather. It's true. Very few don't. Amy. They have them in the palm of their hand. Many of our politicians are in the palm of the white man's hand, but in particular, in the palm of the Jewish white man's hand. When stinkin' David Dinkins ran for mayor, when he ran the first time, he would come on television with his yarmulke on. Nigger didn't wear no African

MENENDEZMANIA continued from page 1

a class act. From the get-go, the trial had the look of a bad TV movie. The cast of players seemed somehow like cheap caricatures of real people. Their performances were hollow. The brothers themselves were straight out of *Beverly Hills 90210* (or perhaps *The Billionaire Boys Club*). The lawyers' rhetoric often sounded like outtakes from *LA Law*.

Everybody in the trial seemed to be vying for his 15 minutes of fame. Over the course of six months, the witness stand was visited by a parade of people who seemed straight out of a modern morality play: Rich Fool, Spoiled College Brat, Gossipy Neighbor, Back Stabbing Relative, Smarmy Therapist, Shifty Cop, Cretinous Coroner. There was also the weirdest assortment of bit players this side of *Broadway Danny Rose*. Even veteran media shill Skip E. Lowe managed to find his way to the stand. Lowe recited an anecdote in which he and his date, Mamie Van Doren, had across from the Menendez brothers and their father Jose at a black tie affair. At some point during dinner, Lowe recalled breathlessly, Mr. Menendez pinched Eric and called him "dummy."

When the prosecutor Pamela Bozanich asked whether Lowe (who referred to himself numerous times as an "entertainer") had offered to appear as a defense witness because he wanted to be on TV, the pint-sized, peroxidized cable TV host turned red and sputtered, "I'm on TV everyday! I don't need this. I felt I had something to say!"

The lawyers also got in on the theatricality. Early on in the proceedings, tiny, pug-faced defense attorney Leslie Abramson showed her mastery at working the media, in the by-now-famous moment when she strode down the entire length of the courthouse hallway giving the finger to the news cameras. From day one, the constantly gesticulating Abramson made a valiant effort to direct, produce and star in her own movie, much to the dismay of poor Judge Stanley Weisberg, who on several occasions attempted to call a halt to Abramson's nonstop demagoguery by threatening to find her in contempt. (The only other attorney in town who is in Abramson's league as a shameless media hustler is high-priced ambulance chaser Gloria Allred.)

In addition to providing a venue for a Darwinian struggle for fame, the Menendez trial emerged as a kind of massive group therapy session, with participants all over the country calling into Court TV's phone lines—not simply to render their opinions on guilt or innocence, but in order to reveal the intimate details of their own lives, and in many cases their own abuse at the hands of a tyrannical parent. (This use of national TV as a confessional was no doubt due in part to the popularity of Oprah, Donahue and other daytime talk shows, where on any given afternoon you can see people giddily shoring out the most sordid details of their lives, sexual and otherwise. Discussions about this phenomenon dominated the aftermath of the trial as much as revelations of sodomy and oral copulation had the courtroom proceedings themselves.)

The Menendez trial brought out the worst in all of us—in particular in the media. From the outset (the murderers were committed on August 20, 1989) the press went after the story with the comportment of a pack of rabid weasels. The initial reporting was led by the charge of *Hard Copy* senior producer Doug Bruckner, a man fond of wearing trenchcoats, whose over-ennunciated, pseudo-dramatic style of reportage often catapults gobs of spittle out of his mouth. The pieces that graced the air in those first days—which bore titles like "Secret Tales of The Menendez Family"—were for the most part full of misinformation, uncorroborated facts and just plain horseshit, and they set the tone for what was to come. There were ten shots. There were twenty shots. Lyle was on drugs. Jose paid off Lyle's pregnant girlfriend to take a hike. Kitty was shot in the vagina...

Even the so-called "straight press" came off look-

ing and behaving just like their tabloid brethren. On August 1, 1991, ABC's *Prime Time Live*—which had done a number of previous segments on the Menendez case—aired what can only be described as the consummate hatchet job on Dr. Jerome Ozeil. The piece, titled "Doctor's Orders," featured three former Ozeil lovers levelling charges of rape, battery, sexual abuse and mind control against the beleaguered psychologist, and they made the gutter journalism of *A Current Affair* and *Hard Copy* look tame by comparison. The segment featured the obligatory shots of an unsuccessful attempt to interview Ozeil (a time-honored journalistic ploy used to highlight the hidden agenda of the interviewee and the "ethics" of the interviewer). Whether or not Ozeil is a

ers. Then, on September 10, 1993, Lyle Menendez testified about child molestation. Two naked pictures of a six year old Erik and Lyle—purportedly shot by their father—were affixed to the courtroom bulletin board. OK, they weren't exactly porn photos (how many families snap the very same kind of picture of their kids?), but they were NAKED. There was talk of sadistic porno films, toothbrushes (toothbrushes?!) and Vaseline. A tearful Lyle admitted to performing forced oral copulation on his father. As this line of testimony went on, you could feel a palpable sigh of relief in the media room. Praise the Lord! The show was on the road!

That night Channel 11, which had been featuring "expanded coverage" of the trial since its inception, showed the nude photos—with a black bar across the tiny penises of the Menendez children—on their 10:00 p.m. news. The black bar, which got its start in the 50s in *Confidential* magazine, has the curious capacity of making innocent pictures look "dirty." No doubt about it—the media were going to have a field day with this stuff.

"Lyle—His Horror Stories!" was the slug line for the Channel 9 news that night. "We must warn you, what you are about to see is graphic and may be disturbing!" warned the announcer before anchorman Jerry Dunphy went into his spiel. Meanwhile, Court TV—which reran the segment all weekend—dragged in a slew of low-rent law professors, all of whom offered their "expert commentary." This began the onslaught of the experts. Other stations hauled in their own experts too, although the expertise itself was usually something less than revolutionary. "The young man's tears looked remarkably real," Stanley Goldman, Channel 9's attorney, said expertly in one moment of pathos.



LESLIE ABRAMSON, DEFENSE ATTORNEY

disreputable character isn't the point. The point is that the show—with the ever noble Diane Sawyer at the helm—attempted to mask what was a simple piece of character assassination as valid investigative reportage.

From the beginning there was a race to get the first movie that had the desperation of the race to the South Pole. The first movie deal was made in December 1989, when Karen Lamm, former wife of deceased Beach Boy Dennis Wilson, said she received a psychic "revelation" that the brothers had committed the murders. The first person she phoned was her agent. "I wasn't thinking of making a movie," Lamm insists. "It just happened that (Mike) Greenfield was a friend, and his was the first number I dialed."

Friendship notwithstanding, Greenfield packaged Lamm, veteran producer Zev Braun and Tri-Star Films. Their mini-series—already in production before the trial was finished—will air on CBS during May sweeps. The TV movie stars Beverly D'Angelo as Kitty Menendez and that ever-media-hungry liberal shill, Edward James Olmos, as Jose Menendez.

A second TV movie of the week, based on the forthcoming book *Bloodbrothers*, written by reporters Ron Soble and John Johnson, will air on Fox TV. Last week, coauthor Johnson showed up as producer and anchor in a segment of *Hard Copy* which essentially served as promotion for his film.

Free-lancer Robert Rand, who had an option with NBC for a movie of the week, got out of his deal when execs killed the project. But among the Menendez journalists-cum-movie-producers, Rand—whom peers described as a one-man "Menendez cottage industry"—fared quite well by selling off Menendez tidbits to everybody within reach of his telephone, including *Playboy*, *Paris Match* and *Inside Edition*.

THANK GOD FOR CHILD ABUSE!

Much to the dismay of all these entrepreneurs in the media, the Menendez trial actually threatened to fizzle out during the dreary parade of coaches and schoolteach-

WILL THE REAL VICTIM PLEASE STAND UP?

We all know that defendants are scripted to some degree, but in the Menendez case there was the uncomfortable feeling that we were seeing not simply a rough draft in progress, but an artfully crafted melodrama, complete down to the most infinitesimal detail. This seemed a bit baffling—that is, unless you were aware of an unseen member of the Menendez defense team, a man named Paul Mones.

An attorney, Mones is the author of the bestselling book *When A Child Kills: Abused Children Who Kill Their Parents*. The book, which puts forth the theory that abused children are akin to victims of battered women's syndrome, provided the cornerstone of the Menendez defense. (It seems worth mentioning the forgotten fact that the brothers, 18 and 21 at the time they killed their parents, were legally adults.)

According to its proponents—most of them from the feminist legal community—victims of battered women's/battered children syndrome have been so badly damaged that they can no longer distinguish reality from fantasy. Thus their constant perception of "imminent danger" becomes the cornerstone of their plea of self-defense. Victims of the "syndrome" (the use of the term *syndrome* is one of the many attempts by its adherents to elevate this to the status of a biological disease) are said to suffer from PTSD (post traumatic stress disorder), the same illness that affects Vietnam vets and concentration camp victims. Often they suffer from multiple-personality disorder, another highly-fashionable diagnosis these days.

Mones' book—in which he often sounds more like an amateur therapist than an attorney—is kind of a combination true-crime, self help psychobabble book. The hopelessly muddled work epitomizes the worst of both genres. Replete with gory details of assorted murders, the 359 page tome is rife with opinion masked as fact, psychological doublespeak and a massive amount of cheesy sermonizing by the author. Mones accuses opponents of

REVIEWS

the American military and American military expenditures. Over 61% of students agreed that the United States' military expenditures were "excessive," yet a majority of students also agreed (56.5%) that the United States military is "the major obstacle to the further extension of Soviet power and influence."

"It may be wondered," Hollander muses, "how American military expenditures could be viewed as excessive if they achieve their purpose, that is, to deter Soviet expansion." Other students polled (48%) went along with the statement, "American culture and society, dedicated to competitiveness and material gain, nurture indifference to one's fellow human beings." Yet the large student agreement with this anti-American cliché took place in the midst of an even wider student disagreement (68%) with the anti-American statement, "American society, more than most others, has failed to live up to its own ideals" and (by 57%) with the similarly anti-American statement that "The United States bears responsibility for much of the suffering and deprivation in the Third World."

Sympathy with capitalism, Hollander observes of the students' seeming inconsistencies, "need not be felt to be part of the conservative outlook." Indeed. There is a whole area on the right of the political spectrum which is also antithetical to capitalism and the United States. In the 1930s and 40s this right wing attitude found expression in National Socialism and Fascism. Today it echoes again in the European New Right. In this respect as well as others the World Left is often indistinguishable from the World Right.

Hollander is sometimes too kind a critic. Drawing on Emile Durkheim, he suggests that the cultural relativism and moral uncertainty associated with the United States explains and perhaps even justifies some forms of anti-Americanism. He agrees with Leszek Kolakowsky that the dissolution of social taboos and long-standing traditions may be the consequence of what the United States is all about. American-generated "modernity" would therefore inevitably bring about the dissolution of America itself.

This is in fact a variation upon an old idea, fallen into disrepute since the collapse of the socialist regimes, which socialists once regularly used to attack capitalism: by dissolving the beliefs on which it is built, socialists claimed, barriers-breaking capitalism sows the seeds of its own destruction and its eventual replacement by socialism.

The idea is not more sound when shifted from the study of capitalism to the study of the United States. Neither cultural relativism nor moral uncertainty need be associated with American civilization. No reader of the Founding Fathers, of the philosophers who influenced them or of the early history of this country can say that the United States was built upon moral relativism and irrationality. Thomas ("Your reason is the only oracle") Jefferson? Patrick Henry? Ben Franklin? Adam Smith? John Locke? Thomas Paine? Relativizing, irrational and morally uncertain men? These giants would laugh if we told them that the breakdown of collective taboos, and their replacement the individual citizen's use of his reason in the pursuit of his own happiness, cause America's problems. They would answer that it is in fact the acceptance of philosophical premises inimical to those upon which American civilization was built that accounts for all the lamented uncertainty and relativism.

With this book, Hollander confirms his standing as one of the foremost *connoisseurs* of the Western and especially of the American left. It is a worthy successor to such earlier classics of his as *Soviet-American Society*, *The Many Faces of Socialism*, *Political Pilgrims* and *The Survival of the Adversarial Culture*. After reading it, one can only look forward to Hollander's next effort: *Decline and Discontent—Communism and the West Today*. Here is a subject whose time has come!

DARIO FERNANDEZ-MORERA teaches at Northwestern University.



KHALID MOHAMMAD continued from page 11

filled with the swill of the swine, affecting their minds. They're the blood suckers of the black nation and the black community. Professor Griff was right, when he spoke here. Then he spoke at... and when he spoke in the general vicinity of Jersey and New York, and when he spoke at Columbia Jew-niversity over in Jew York City. He was right. The comments that Professor Griff made, and if you scare the Professor Griff, I'm Professor Griff's professor, (laughs) you know [inaudible] trouble. He was 100 percent right. Brother Steve Coakley, 100 percent right. Brothers and sisters, everyone that they have attacked, Dr. Jeffries, why I just mentioned Dr. Tony Martin. All of them have told us the truth. Dr. Yusef Ben Yokenem. Now they're attacking Dr. Malefia Santi. They're attacking Afro-centricity. They're saying that our position now, the research that we're doing, they just summarily dismiss it, but none of them want to debate.

...You no good lyin' bastard. You sit around here and lie. But you won't come in and face me, because you know I got [inaudible]. I didn't even bring all my stuff out here. Brother, when a couple of brothers just bring everything I had there. I had so much stuff, I thought there was gonna be a bunch of white folks here. I just came with all my...came with my Jew [inaudible]. And a couldn't get a cracker to come in here and do nothin'. You outside pootin' in the wind somewhere. I brought so much stuff, I had to take a couple... I had all my stuff, and got some more in the trunk of the car. I thought it would be Jews everywhere, ready to do battle tonight. They're just cowards. Got to bring in the other one. We got to bring in the other one. Thank you, sir. Don't put it up here. I gotta work from this table. What about the unholy alliance, Dr. John Henry Clark called it the unholy alliance between Israel and South Africa. He calls it scratches on a time bomb. The unholy alliance between Israel and South Africa. Let's look at it. Oh yeah, I'm...I mean that ain't no do...this ain't no socks and stuff. (laughs) I came ready. I thought you had some brave Jews here. These Jews are punks. Scared to come out. Why am I talking like this? Because again, my leader tried to reason with you. My leader tried to dialogue with you. My leader came to you in the spirit of dialogue so that we could sit down and discuss these points. But you disrespected him. And then lied on him. And so now you have to face us, and we will eat your behind alive. The unholy alliance between Israel and South Africa. South Africa is a key and could be considered with America, number one trading partner of South Africa. The DeBeers mines, Oppenheimer, our people, our brothers and sisters in South Africa, hundreds of them lose their lives. Sometimes thousands in those mines. Miles underground, mining diamonds for white Jews. That's why you call yourself Mr. Reuben-stein, Mr. Gold-stein, Mr. Silver-stein. Because you been stealing rubies and gold and silver all over the earth. That's why we can't even wear a ring or a bracelet or a necklace without calling it Jew-elry. We say it real quick and call it jewelry, but it's not jewelry, it's Jew-elry, 'cause you're the rogue that's stealing all over the face of the planet earth. You don't have a home nowhere. No good bastard. Bring me your best. I still call you out. You say my leader's lyin'? Bring me your best. I'm just a student of his. And you don't have a cracker that can handle me. Not one, not 10, not 20 of your crackers. Bring 'em. Some daredevils to do that? Some Evil Knievels? (laughs) I don't believe you can. It was Israel that helped South Africa gain nuclear power, huh? It's Israel that has ongoing technological...is helping with the ongoing technological advancement of South Africa. Israel. Do you know brothers and sisters

that there in Jew York City, at the Jew-nited Nations...

It was the Jews, those so-called Jews, that financed Spike Lee and gave him 30 million dollars to produce the movie "Malcolm X." Jesus was betrayed by Judas. Judas was given 30 pieces of silver. Spike Lee was given 30 million dollars. No white Jew in his right mind would give a black man 30 million dollars to produce a movie that's gonna present Islam in a positive light and convert the masses of black people to Islam. No white Jew in their right mind would give 30 million dollars to Spook Lee, to produce a movie that will spotlight a freedom fighter and a revolutionary in his proper and positive historical light...

The Jews like money, and they have always been after money. They want nothing else but money...It was the Jews, brothers and sisters, the so-called Jews, not only who crucified Jesus in a kangaroo court, but it was the Jewish prosecutor Maddox who prosecuted the Honorable Marcus Mosiah Garvey in a kangaroo court. Jews in the judicial system that worked against Mr. Garvey, and ultimately worked toward Mr. Garvey being deported from America. The so called Jews. The hook-nosed, bagel-eatin', lox-eatin', impostor, perpetratin' a fraud, Johnny-come-lately, just crawled out of the caves and heels of Europe, wannabe Jew, not the true Jew. For you are the true Jew. You are the true Hebrew. You are the true ones who are in line with Bible prophecy and scripture, so teaches the most Honorable Elijah Muhammad and the Honorable Minister Louis Farrakhan. You are the people of the Bible that fulfilled the Bible prophecies.

One man, one vote. One person, one vote. A multiracial government in South Africa. We don't owe the white man nothin' in South Africa. He's killed millions of our women, our children, our babies, our elders. We don't owe him nothing in South Africa. If we want to be merciful at all, when we gain enough power from God Almighty to take our freedom and independence from him, we give him 24 hours to get out of town, by sundown. That's all. If he won't get out of town by sundown, we kill everything white that ain't right [inaudible] in South Africa. We kill the women, we kill the children, we kill the babies. We kill the blind, we kill the crippled, [inaudible] we kill 'em all. We kill the faggot, we kill the lesbian, we kill them all. You say why kill the babies in South Africa? Because they gonna grow up one day to oppress our babies, so we kill the babies. Why kill the women? They, they... because they lay on their back, they are the military or the army's manufacturing center. They lay on their back and reinforcements roll out from between their legs. So we kill the women too. You'll kill the elders too? Kill the old ones too. Goddamit, if they in a wheelchair, push 'em off a cliff in Cape Town. Push 'em off a cliff in Cape Town, or Johannesburg, or [inaudible], or Port Shepstone or Durbin, how the hell you think they got old, they old oppressing black people. I said kill the blind, kill the crippled, kill the crazy. Goddamit, and when you get through killing 'em all, go to the God damn graveyard and dig up the grave and kill 'em, God damn, again. 'Cause they didn't die hard enough. They didn't die hard enough. And if you've killed 'em all and you don't have the strength to dig 'em up, then take your gun and shoot in the god dam grave. Kill 'em again. Kill 'em again, 'Cause they didn't die hard enough. I cannot focus on an economic system in South Africa until we get our politics right. Until we determine what the revolutionary approach is gonna be.

What a fool you are Mandela. Somebody bum-rush your house. Black boots stomp your door down. And come in, rape everybody in the house, men and the women. Take everything. Only way out of the door they got the gun on you. You able to take their gun and put their gun on them. Does that make you a reverse robber and a reverse rapist?



FINAL ANALYSIS

Fonda/Turner To Unveil "People of COLORIZATION"

by TURK RICHARDS

Actress and former political activist Jane Fonda and her media mogul husband Ted Turner have announced the development of a revolutionary new technology aimed at addressing the lack of positive roles for minorities in American film.

"People of COLORIZATION is Hollywood's first attempt to meet the need for positive African-American and Hispanic role models in film," Fonda said at an Atlanta press conference last month. Looking fit from a recent regimen of yoga which allowed her to backtrack from the advocacy of violent exercise which she espoused a decade ago, Fonda stood flanked by her husband, whose Turner Communications Corporation first began experimenting with electronic COLORIZATION seven years ago. The couple was also joined by civil rights leader Jesse Jackson, who hailed Turner's decision to adapt the process to the transformation of "racist movies" as a gesture that would "end the cycle of pain and further the cause of equality in this nation."

To Jackson and many other black leaders and artists, Hollywood has long been seen as a bastion of bigotry run by bottom liners who neglect totally the needs of minorities, unless these needs happen to have a box office dimension. As Jackson said during the remarks which followed Fonda's at the press conference about People of COLORIZATION, "the motion picture industry's portrayal of blacks from the 1930s onward has been the leading cause of perpetuation of social problems in the inner city." Speaking with tent meeting fervor, Jackson said, "We are tired of seeing African Americans portrayed in contemporary films as drug pushers or ass-kissers like Danny Glover in *Lethal Weapon*. We are also tired of seeing old classic films on TV and seeing African Americans portrayed as idiots and doormats. Traditional Hollywood producers have continued to refuse to meet the needs of diversity. But now, with People of COLORIZATION, minorities will finally gain equal access to America's treasury of great movie classics."

People of COLORIZATION uses a multimillion dollar computerized process which enables technicians to change whites into blacks and blacks into whites when

celluloid images are transferred to the home video format.

Critics like *At the Movies*' Roger Ebert and Gene Siskel, who immediately branded Turner as a greedy philistine for his earlier "colorizing" of great classic films like *The Maltese Falcon* ten years ago, immediately hailed the Fonda/Turner COLORIZATION as a triumph of technology over social injustice.

Ebert and Siskel are so excited about the innovation that they will dedicate the first five minutes of each *At the Movies* show to reviewing new releases in "People of COLORIZATION."

In unveiling the new technology pioneered by her husband's researchers, Fonda announced the three films that Turner Communications will release as the first examples of the new technology later this spring.

In *Casablanca*, the COLORIZATION process has made Rick, Ilsa and Captain Renault into Africans, making life and death decisions of morality, romance and the fate of the world. Sam, Rick's servile piano player, is now white, and when he plays the famous theme song of the film, the rhythms are uncertain. "The reversal works," Ebert says. "Blacks are as capable of self-control and sacrifice as whites. Audiences of all races will be pleased."

In *Driving Miss Daisy*, a cantankerous old black dowager is driven around a small Southern town by a white chauffeur who playfully reproaches her for her bad grammar and lack of education. "This is a double whammy that should be satisfying to feminists as well as African Americans," says Gene Siskel. "It shows that you can be black and a woman and give orders to a white male."

In the COLORIZATION version of *Guess Who's Coming to Dinner*, a white suitor experiences ridicule as an uptight square when he visits the hang-loose family of his black girlfriend. This is, Ebert says, "an object lesson for all of us who have been imposing our white values on people of color for all these years. This is social commentary at its best!"

Whether or not the COLORIZATION process succeeds, Jesse Jackson and others have been agitating behind the scenes for a special Oscar for Jane Fonda. Rumors are, in fact,

that the motion picture academy has already ordered an ebony version of the statuette for the actress, which would be presented by Michael Jackson, whose dermatological experiments have marked him as a sort of living example of what will be possible through the COLORIZATION process.

TURK RICHARDS is a writer living in Boston.



JANE FONDA & TED TURNER

"Films have always captured the full range of human experience," Ebert said, "but only for Eurocentrics. Except for great Spike Lee classics like *X* and *Do the Right Thing*, the needs of blacks have been ignored."

Siskel added that with the unveiling of COLORIZATION, he finally understands "what motivated a former radical and fighter for social justice like Jane Fonda to marry a capitalist like Ted Turner. And it's nothing less than the liberation of minorities in film."

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THE WHITE HOUSE

WASHINGTON

93 DEC 23 PM 2:42

DEC 23 1993

MEMORANDUM FOR THE PRESIDENT

FROM: John H. Gibbons 
Sally Katzen 
SUBJECT: Decision Memo -- Administration Position on Risk Assessment,
Management and Communication

BACKGROUND

How agencies assess and compare risks within their jurisdictions, set regulatory priorities, and communicate risks to the public has quickly moved to the center of public debate. Dozens of bills relating to these subjects were introduced in the last Congress and, with tough issues such as Superfund and the Occupational Safety and Health Act Reauthorization on the table, we can expect the interest in Congress to only increase in the new year.

Recognizing the need for a consistent Administration position regarding -- and the benefit of a uniform approach to -- risk analysis, we convened an Interagency Working Group on Risk Policy. The group includes representatives from the relevant White House policy offices as well as senior staff from agencies that regulate health, safety, and environmental risks.

PRINCIPLES ON RISK ASSESSMENT, MANAGEMENT AND COMMUNICATION

The first product of the Working Group is a set of principles (attached) intended to guide risk policy within the agencies that regulate risks. The principles, which are built upon and complementary to provisions of the Executive Order on Regulatory Planning and Review (E.O. No. 12866 signed on September 30), provide a basic framework for agencies to consistently assess, manage and communicate risks.

We believe these principles should be adopted by the Administration and promulgated to the agencies, either through an Executive Order or a memorandum signed by the two of us. Thereafter we would continue to work this issue with our next effort directed to compiling and comparing all the various statutes setting risk policy that govern Executive Branch agencies so that differences in standards can be assessed and any changes proposed. We would also continue to provide assistance through the Office of Information and Regulatory Affairs and the National Science and Technology Council to agencies engaged in risk analysis.

RECOMMENDATION

The principles should be embodied in an Executive Order on Risk Policy and the further work described above should be pursued.

DECISION

- ___ Prepare an Executive Order on Risk Policy based on the attached principles.
- ___ Issue a memorandum from Jack and Sally to agency heads stating the Administration's policy on risk based on the attached principles.
- ___ Do not issue a statement of Administration policy on risk at this time.
- ___ Let's discuss.

Principles for Risk Assessment, Management, and Communication

A. General

1. As stated in Executive Order No. 12866, "In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risk posed by various substances or activities within its jurisdiction." [Section 1(b)(4)] Further, in developing regulations, Federal agencies should consider "...how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency." [Section 4(c)(1)(D)]
2. In undertaking risk analysis, agencies should establish and maintain a clear distinction between purely factual aspects (risk assessment) and value judgements and other policy considerations (risk management).
3. The range of facts considered during the risk assessment phase should include those issues anticipated at the risk management phase. Anticipating these issues requires regular communication between risk assessors and risk managers.

B. Principles for Risk Assessment

1. Agencies should employ the best objective evidence concerning the relationship between hazardous events and their effects on health, safety, and the environment, including analysis of significant assumptions, data, methods, and uncertainties.
2. Policy judgements used in developing a risk assessment, such as "uncertainty factors," "conservative assumptions," and "margins of safety," should be stated explicitly.
3. The range of risks considered in risk assessments should be broad, extending beyond cancer risks.
4. Each risk assessment should include the following four parts:

- a. hazard assessments, which detail the intrinsic nature of the risk;
 - b. exposure assessments, which detail the conditions and expected behavioral patterns under which humans and other biological systems may be expected to encounter such hazards;
 - c. dose-response assessments, which evaluate the relationship between the dose of an agent administered or received and the incidence of an adverse health or ecological effect; and
 - d. risk characterizations, which integrate the results of the hazards, exposure, and dose-response assessments in a manner that can be readily understood in the context of other risks.
5. Risk assessments should be peer-reviewed and subject to public comment to ensure that the highest professional standards are maintained.
 6. Agencies should strive to adopt consistent approaches to assessing the risks posed by hazardous agents or events.

C. Principles for Risk Management

1. In developing risk management strategies, agencies should consider risk assessments augmented -- when appropriate -- by analyses of other benefits (both direct and indirect, both quantifiable and non-quantifiable) associated with the selection or implementation of a risk management strategy, together with analyses of the costs (both direct and indirect, both quantifiable and non-quantifiable) associated with each such strategy. In doing so, agencies should employ the best objective economic and policy analysis, and such analyses should include explanations of the significant assumptions, uncertainties and methods of data development.
2. In choosing among alternative approaches to reducing risk, agencies should ensure that actions taken to manage risk achieve their purpose in a manner that offers the greatest net improvement in total societal welfare, including health, safety and environmental quality.

3. Risk management decisions should be responsive to and consistent with statutory mandates and Administration priorities. In making risk management decisions, agencies should consider a broad range of relevant social and economic considerations, such as equity, quality of life, individual preferences, and the distribution of costs and benefits.

D. Principles for Risk Communication

1. Risk communication should be a two-way process involving the open exchange of information between policy makers and the public.
2. Risk assessments and risk management decisions should be communicated accurately and objectively to the public -- in a way that can be readily understood in the context of other familiar risks.
3. In communicating with the public, agencies should:
 - a. explain the basis for significant assumptions, data, models, and inferences used or relied upon in the assessment or decision;
 - b. describe the extent and magnitude of significant uncertainties associated with the assessment or decision;
 - c. make appropriate risk comparisons, taking into account, for example, public attitudes with respect to voluntary versus involuntary risks; and
 - d. provide timely, public access to relevant supporting documents and a reasonable opportunity for public comment.

E. Principles for Setting Risk-based Priorities

1. Agencies should seek to rank risks; where they cannot do so with precision, they should group them in broad risk-based priorities (e.g., high-risk, moderate-risk, low-risk).
2. The setting of priorities should take into account the views of both internal agency experts and a broad range of individuals in state and local government, industry, academia, and nongovernmental organizations, as well as concerned

citizens. Where possible, consensus views should be reflected in the setting of priorities.

3. Where possible, agencies should set priorities for managing risks so that those actions resulting in the greatest net improvement in societal welfare are taken first.
4. Agencies should attempt to coordinate risk reduction efforts wherever feasible and appropriate.

1/17
RUBIN
talked to
Reich who
agrees
not to submit
to POTUS

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DEC 22 1993

94 JAN 3 A 9: 57

MEMORANDUM FOR THE PRESIDENT

FROM: Secretary of Labor Robert B. Reich *RB*

SUBJECT: Tax Breaks

Some of the squeeze on the domestic discretionary budget could be relieved by eliminating certain tax breaks, thus creating offsets for the mandatory side of the ledger.

I attach a sampling of possibilities, intended merely to illustrate the kinds and magnitudes of tax expenditures currently in effect, rather than to recommend the elimination of any one of them. It may well be worth asking the NEC and Treasury to produce a more refined (or even longer) list.

Attachment

94 JAN 12 P 6: 23

December 17, 1993

TAX EXPENDITURES

(all revenue estimates are unofficial)

1. **Tax capital gains on inherited property:** Currently, heirs can sell inherited property and pay no tax on gains that accrued prior to the time they inherit. Treasury analysts estimate that as much as two-thirds of all capital gains escape taxation entirely due to this loophole -- which will cost in excess of \$100 billion over the next five years. These built-up capital gains should be subject to tax at the time of inheritance. (Exceptions could be made for farms and closely-held businesses by delaying the tax until inherited property is sold.) 5-Year Revenue Gain: \$20 billion-plus.
2. **End tax breaks for mergers and acquisitions:** The deductibility of corporate interest payments, even in the case of "junk bonds" and other types of debt that are more like stocks than real borrowing, helped fuel a wave of leveraged buyouts and other debt-for-stock transactions in the 1980s. From 1985 to 1990, more than \$1 trillion in new corporate indebtedness was incurred, accompanied by \$54 billion in corporate stock retirements -- now costing the federal Treasury some \$20-30 billion a year in lost corporate taxes. The deals that were struck then cannot be undone, but strict curbs on interest deductions on debt used to finance acquisitions and other limitations on companies' ability to characterize equity as debt are needed to keep this problem from resurfacing and making the revenue hemorrhage even worse. In particular, interest on debt incurred to purchase stock (in excess of \$5 million) should no longer be deductible, thereby stopping this perverse tax incentive for corporate debt.

In addition, many companies that made acquisitions in the eighties have taken extremely aggressive positions on their tax returns, in attempts to write off what they paid for "goodwill" and similar "intangible" assets. Billions of dollars in back taxes are at stake in litigation. The 1993 budget act actually allows these deductions for the future, which may encourage future acquisitions. That change should be repealed, and the law should be clarified to make crystal clear that no goodwill write-offs are allowed. 5-Year Revenue Gain: \$9 billion.

3. **Curb tax breaks for runaway plants:** Current tax breaks could be limited that (1) allow companies to "defer" indefinitely U.S. taxes on unrepatriated income earned by

foreign subsidiaries and (2) allow companies to use foreign tax credits for taxes paid to non-tax-haven countries to offset U.S. tax due on repatriated profits generated in a low-or no-tax foreign tax haven. These tax breaks, which encourage companies to move business activity overseas, could be disallowed in cases where goods are produced in overseas tax havens for U.S. sale, as provided in H.R. 2889. 5-Year Revenue Gain: \$1 billion.

4. **Reform the corporate and high-income Alternative Minimum Tax:** The Alternative Minimum Tax is supposed to assure that all companies and wealthy individuals pay some significant federal income tax. But there are a number of weaknesses in the AMT that should be fixed.

The AMT base should be broadened, by eliminating deductions for interest payments to foreign lenders in tax havens, mortgage interest on second homes and on more than \$200,000 in mortgage debt, and "company cars" (with minor exceptions). Executive fringe benefits should be subject to the AMT and exceptions to the "at risk" anti-tax-shelter rules should be eliminated. And any of the reforms outlined earlier that are not dealt with in reforming the regular income tax should be adopted at least for AMT purposes.

Unfortunately, the 1993 budget act substantially weakened the corporate alternative minimum tax, by boosting AMT depreciation write-offs. In addition, the 1993 act weakened the individual AMT by allowing double-dipping deductions for charitable donations of appreciated property (stocks, real estate, artworks, etc.) These were steps in exactly the wrong direction. Repealing the 1993 changes along with other AMT reforms could raise tens of billions of dollars over five years.

5. **Stock Transfer Excise Tax:** Proposals for this type of tax have been advanced before, most visibly by Sen. Dorgan (D ND) when he served in the House, and have drawn predictable opposition. Nonetheless, the magnitudes of revenue that could be raised make it appealing--at least to populists: a tax of .15 percent--or fifteen cents on a purchase of \$100 of stock--would bring in about \$4 billion a year.
6. **Exclusion of foreign source income:** Under section 911 of the tax code, individual taxpayers can exclude the first \$80,000 of income earned in foreign countries from taxation here in the U.S. (If the individual pays taxes to a foreign country, a credit is applied against U.S. taxes. Much of the income subject to this exclusion, however, is never taxed anywhere). The level of the exclusion might be lowered; eliminating it totally (while retaining the credit for

taxes paid to other countries) would generate roughly \$1 billion a year.

7. **Formulary Apportionment of World-wide Income:** The current rules for allocating the income of multinational corporations for tax purposes are incredibly complicated--and provide lots of opportunities for manipulation and abuse. Pricing studies of individual products are used to determine how much income is earned in each country in which a company does business, (generating a lot of work and income for business consulting firms). Instead of these item-by-item studies, a more mechanical system based on the proportion of sales in each country could produce better results--and significant additional revenue. Such a change would also tax big foreign companies that are not now taxed on the income they earn here. Sen. Dorgan has been a proponent of this approach in the past, and business interests objected loudly.
8. **Home Mortgage Deduction:** Under current law, the tax deduction applies to mortgages of up to \$1 million, resulting in a \$30 billion tax expenditure. (Second homes come in under this cap, but third homes do not qualify). Significant amounts of revenue could be raised by lowering the cap or by specifying an amount of mortgage interest that qualifies for the deduction that would correspond to a lower cap. However, since much of the revenue is currently lost on the low-to-moderate end of the mortgage scale, you would need to lower the cap to about \$300,000 to raise as much as \$4 billion a year. Lowering the cap to \$500,000 would raise about \$4 billion over five years.

1/17

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DEC 21 1993

94 JAN 3 A 9: 57

MEMORANDUM FOR THE PRESIDENT

FROM: Labor Secretary Robert B. Reich *Bm*

SUBJECT: Investment Budget

Several of us are quietly working on the problem of formulating and implementing an "investment budget." The attached are preliminary thoughts, fyi.

Attachment

94 JAN 12 P 6: 25

December 21, 1993

An Investment Budget?

In assessing budget options, undue emphasis should not be placed on a narrow definition of deficit reduction -- not that deficit reduction is unimportant, only that it's not the main issue. Economic growth is the main issue, to which deficit reduction is only tangentially related. Over the longer term, a large deficit may retard growth, but it's not the biggest drag on growth. That distinction goes to the nation's failure to invest -- its failure to invest adequately in factories and equipment and its failure to invest in education, training, roads, bridges, water and sewer systems, and the other foundation stones of a modern economy.

The effect of the budget on investment is a particularly important consideration this year, now that we have accomplished so much to reduce the deficit with the reconciliation bill. Progress was made on the investment side as well, but needed expansions were reduced substantially out of concern over the overall size of the deficit. Now that the deficit has been brought under control, the role of investment should be elevated.

This memorandum outlines how the creation of an "investment budget" could help advance this priority. It is intended to spur discussion and generate ideas.

Spending versus Investment

The notion of public investment sometimes is met with derision as another label for spending. While it's certainly possible to dress up old-fashioned government spending in "investment" attire, this misses the point. There's an important distinction between spending and investing, and the distinction is the same both in the private and in the public sphere. Mere spending does not increase future productivity; investing does. When the government funds defense and domestic spending programs, it maintains the safety and economic security of citizens here and now. On the other hand, when the government funds primary and secondary school education, worker-training, and the building or repair of roads and bridges, it enhances the capacity of our citizens to be productive in the future.

The distinction bears directly on the deficit itself. Borrowing from future generations in order to invest in their capacities to be productive is surely more justifiable than borrowing from them in order to make today's citizens safe and happy. The former generates economic growth, which enables future generations to pay off the loan and enjoy its fruits. The latter simply burdens them, without growth.

Obsessive concern about the deficit number misses this distinction. This issue -- the government's real borrowing from the future relative to its investing in the future -- needs highlighting.

How to highlight it? Public budgeting is an art form that can bear scant relation to what the public understands its government to be doing. There are few more important subjects in public affairs than how the government budgets itself, and few so little understood by the public. By default, the budget deficit number has become a totem because the average citizen must balance a checkbook and thus easily comprehends what it means to be in debt. Inability to pay a debt provokes anxiety, for there are bad consequences; one can lose a car or a home, or worse. Moreover, the deficit number is stark, seemingly unambiguous, and it can be compared year by year -- an apparent benchmark of the nation's economic and moral health. This definitiveness, and the anxiety and unfolding drama connected with it, focuses public attention like nothing else about the budget. How else to make broad judgments about what the government is up to?

In fact, the deficit and debt numbers bandied about can be misleading. For example, if all unfunded future obligations (veteran's benefits, Social Security, government retirees) were included in the calculation, the national debt would skyrocket. On the other hand, if the value of the federal government's land holdings, buildings, and facilities were included, the debt would shrink dramatically.

In an ideal world we'd scrap the numbers and start again. We'd ask what any family would ask about its own finances: What do we need to know about our obligations and our investments in order to make wise decisions? At the least, we'd decide that limits on what we spend should be connected to what spending was for. In a family, the prospect of sinking thousands of dollars into a child's college education would be judged differently from spending the same amount on an around-the-world cruise for mom and dad on a luxury liner. A nation's budget should be no less logical. Limits on outlays should be related to their purposes.

Establish an Investment Category and Cap It

One option would be to establish an investment category within the budget itself. A separate "cap" could be established for investments, similar to the BEA spending caps now in place.

A strict definition of investment could be used, in part to combat potential charges of gamesmanship. A recent General Accounting Office report offered a reasonable definition: "federal spending, either direct or through grants, directly intended to enhance the private sector's long-term

productivity....This definition [of investment] includes spending on some intangible activities such as research and development (R&D); human capital designed to increase worker productivity, particularly education and training; and spending for physical capital to improve infrastructure, such as highways, bridges, and air traffic control systems."¹ This definition would not include capital investments, such as federal land or office buildings, or defense weapon systems.

As under BEA currently, the Congressional Budget Office would continue to play an important policing role, both in enforcing the caps and in guarding the definition of investment. This would ensure that this approach is not seen as an Administration budget ploy.

A More Sweeping Proposal

Over the long run, a more sweeping revision of the budget could be considered. The following approach might be a useful starting point for thinking about comprehensive reforms.

At any given time, the "national family" comprises what might be thought of as three generations -- retirees, workers, and children (defined to include all Americans of the future). The three generations have certain obligations to one another. The national budget should remind us what those obligations are, and how well they are being fulfilled. Accordingly, the budget could be segmented into three parts, each with its own spending limit.

- o Spending on retirees should be limited to workers' (and employers') contributions. We can debate how progressive this system should be, and whether (and to what extent) it should be financed on a pay-as-you-go basis, with current workers picking up the tab for retirees. But the system should finance itself (any unfunded liabilities -- responsibilities to future workers which cannot be met at current levels of contributions -- should be fully disclosed), and be separated from the rest of the federal budget. No dipping into other categories; likewise, neither of the other two categories should be able to raid it for funds.

- o On average, spending on the living standards and safety of Americans here and now -- on defense, welfare, criminal justice, farm price supports, and so forth -- should be limited to tax receipts from Americans here and now. This

¹General Accounting Office, AIMD-94-40, Investment Budgeting, November 9, 1993.

part of the budget must be really balanced -- no "accelerated" collections of revenue, no borrowing from future generations, no tapping into retirement savings, no off-budget bailouts or other hidden spending. The balancing requirement would need to be phased in over an appropriate time period.

o The government may borrow only to finance investments in the future capacities of Americans to produce wealth (education, training, child health and nutrition, roads, bridges, and so on). And the borrowing and investing may rise only to the level at which the expected return on any additional investment isn't any higher than the return available to private investors on their own borrowing. (CBO would again need to play a role here in scoring proposals.) The government may not borrow any more money than it invests.

Health care could be a special category in the various sections of the budget. For example, Medicare would be part of the retirees budget section while Medicaid would be part of the here and now budget section.

These are the principles. To make them workable, we'd have to add several wrinkles. For example, the government should remain equipped to stimulate the economy. Counter-cyclical fiscal stimulus remains sound economics, as long as fiscal balance is pursued over the long term. Thus, when the economy is sagging, the rule should be that what's borrowed can exceed what's invested -- so long as borrowing and investing still roughly match over the course of the business cycle.

Had the federal budget been organized this way years ago, net borrowing would probably be much lower than it is today, and -- more importantly -- net investing would be much higher. The public would have been alerted to growing financial burdens and declining rates of investment far sooner.

A cynical response is that, while all this may sound logical, the categories and the rules can be circumvented with ease by clever budget manipulators. That is, regardless of how rigidly the categories are defined, much current spending will magically be transformed into "investments," and retirement surpluses will become new sources of revenue -- thus neatly avoiding tax increases and shifting the burden to future generations.

Anyone familiar with the history of self-imposed budget limits in the 1980s would find this criticism plausible. But what is the alternative? Even such seemingly air-tight rules like a balanced-budget amendment to the Constitution can be circumvented with ease, depending upon how various expenditures

and revenues are defined and when they're counted. The best constraint on budget manipulation is an informed public which understands what the budget is supposed to measure. This is precisely the problem with the system now in place. Today, the public has little idea what it should look for in the federal budget, except a trumped-up number called "the deficit." And because the public has little idea, it can't distinguish budgetary policies which legitimately lower "the deficit" from pure gimmicks which hide future burdens.

The virtue of a system such as the one outlined lies not so much in its logic per se, and the GAO proposed investment definition is indeed tightly drawn, as in the power of that logic to enhance the public's ability to oversee government, and to assess its own priorities. Citizens understand the difference between consuming and investing, between burdening future retirees and future generations of Americans, and helping them. But if the public chooses the former, no budget can stand in the way. At best, a budget is a mirror -- revealing to society its collective choices for how burdens and benefits are to be allocated among its members and between generations. Once revealed, there is no alternative in a democracy but to rely on the public's will. But until revealed, there is no real democracy.

THE WHITE HOUSE

WASHINGTON
April 14, 1994

94 APR 14 P5:59

MEMORANDUM FOR THE PRESIDENT

FROM: BILL GALSTON

SUBJECT: PROGRESS OF YOUR LIFELONG LEARNING AGENDA

On February 22, you set forth your agenda for lifelong learning in a speech to the American Council on Education. The purpose of this memorandum is to report to you on the progress of that agenda during the past six weeks.

Head Start

The administration's Head Start reauthorization proposal was introduced in February with exceptionally broad bipartisan support, including every ranking minority member of key full committees and subcommittees in both the House and Senate. The Senate Labor and Human Resources Committee completed a successful markup yesterday, and the bill was reported out on a vote of 19 to 0. (The only discordant note was a last-minute effort by national Head Start organizations to derail your proposal to extend the program to infants and toddlers, but the timely release of the Carnegie report made it easy to defend the administration's position.) The committee's report is being filed today, and Sen. Kennedy will bring the bill to the floor as soon as possible, perhaps as early as next week.

The House is proceeding with similar speed. The Education and Labor Committee has agreed to skip the subcommittee and go directly to full committee markup on April 21. The hope is then to bring the bill to the House floor under suspension for quick passage and immediate conference. The plan is to have the bill on your desk by May 18, the 29th anniversary of Lyndon Johnson's original White House announcement that set the Head Start process in motion.

Goals 2000

At the San Diego signing of the Goals 2000 bill, you expressed your support for a White House celebration and thank-you for all the supporters who worked so hard for final passage. We are planning a major event, scheduled for early May, in close coordination with the Department of Education.

Secretary Riley has designated a team headed by Mike Cohen to oversee the implementation of the bill. We will carefully monitor it from the White House as well to ensure that it actually catalyzes systemic reform at the state and local level.

Elementary and Secondary Education Act

The administration's ESEA reauthorization proposal was approved by the full House on March 24 with a strong bipartisan vote of 289 to 128, including 45 Republicans. While we did not achieve full success in our effort to target Chapter 1 funds on the poorest schools, we did make substantial progress toward that goal, and most of your other key reform objectives--including support for charter schools--were met.

The Senate Labor and Human Resources Committee held its first hearing today, with others scheduled on April 21 and April 28. The full committee is scheduled to mark up the bill in early May and bring it to the floor sometime in June. We hope to have the bill on your desk for signature by July.

School-to-Work Opportunities Act

As you know, the School-to-Work Opportunities Act would for the first time establish a national framework within which states and localities could create systems of youth apprenticeships involving public schools, community colleges, and workplace-based training. Just today, a House/Senate conference reached agreement on the final text of the bill. Final passage is expected in time for your signature at a ceremony in the last week of April.

Direct lending/income-contingent repayment

Last August, the Congress approved your proposal to phase out the current system of student lending through banks in favor of a new program of direct lending that reduces fees, interest rates, and monthly payments for student borrowers. At the same time, Congress enacted a central promise from your presidential campaign--an option for students to repay their loans as a percentage of income over time.

Since August, we have been working with OMB, the Department of Education, colleges, and students to implement these decisions.

 On July 1, 1994, the first loans will be extended under the new direct lending system. The Department of Education will soon issue its proposed plan for income-contingent loans. By this fall, final regulations should be in place to permit all students (including those who borrowed under the old system) to select income-contingent repayment if they choose.

Finally, the Congress set in motion a process that could produce significant IRS participation in the collection of student loans. By June, as required by law, a joint Treasury/Education report on the IRS role will be submitted to the Congress. Depending on the nature of the recommendations and the congressional response to them, we may need to ask for additional statutory authority.

The Reemployment Act of 1994

As you know, in spite of encouraging economic indicators, public anxiety about the economic future remains high. According to a comprehensive Times-Mirror survey released last week, Americans are focusing not just on job generation and declining unemployment, but also on stagnant wages and the continuing threat of job loss through technological change and corporate downsizing. The Reemployment Act, introduced a few weeks ago, is designed to address these fears head-on, through programs that emphasize flexibility, the acquisition of new skills, and connection with the job market soon after displaced workers enter the reemployment system.

The House Education and Labor Committee has just committed to an ambitious timetable: full committee markup to be completed by late May, with floor debate and a vote in the full House by June. On the Senate side, the Labor and Human Resources Committee hopes to complete committee action in early June, with a floor vote later that month. (The committee and full Senate schedules are highly dependent on the progress of health care legislation, however.) The House and Senate timetables are consistent with a conference and vote on final passage before the August recess.

I'm worried about this too

You should be aware that the while the bill is well-crafted and forward-looking, it nonetheless faces considerable criticism: from business, which worries about the extension of the FUTA tax; from organized labor, which worries about introducing competition into the Employment Service; from governors concerned that the proposal does not amalgamate enough existing training programs and may restrict some of their prerogatives; from members of Congress who resist combining their cherished categorical programs into a larger, more flexible system; and from DLC-type Democrats (and some Republicans) who believe that the bill should have embraced even more competition and amalgamation of narrow categorical programs.

These challenges can be overcome, we believe, with vigorous White House support for this measure, including a clear high-level signal to the Hill that we want it to pass this year and a presidential/Cabinet schedule that reflects this commitment. We are working with Pat Griffin and Ricki Seidman to ensure that this occurs.

Conclusion

(X)

With continuing hard work and a bit of luck, we have a chance to enact your entire lifelong learning agenda by the end of the 103rd Congress this fall. If so, you will be able to lay claim to the most far-reaching transformation of the education, training, and retraining system in this country since the early days of the Johnson administration, almost thirty years ago. The enactment of your proposed FY 1995 investment budget will further reinforce this agenda of comprehensive reform and renewal.



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

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The President
The White House
Washington, D.C. 20500

Dear Mr. President:

In your election campaign and during your first year in office, you offered a new vision of hope and fairness to the people of our country -- one to which Americans responded eagerly:

- Putting people first
- Investing in our citizens
- Rewarding those who play by the rules
- Restoring fairness, and
- Maintaining family and community at the heart of American life.

Here at the Department of Health and Human Services -- "The People's Department" -- we have taken that vision to heart, turning the enormous resources of the Federal government toward those we serve. We strive to transform hundreds of discreet Federal programs into a coherent whole that will work better for the American people.

It is only natural that HHS would play a central role in establishing what will be a lasting legacy for your Administration. When you and I -- and the American people -- look back at this time in our history, I believe they will make special note of the following:

- **Health care security.** When we entered office, the number of Americans without health insurance was rising and an average of 2.2 million Americans were losing their coverage every month. You rightly declared this a "crisis" and laid out a clear vision of a future of health care security. When we leave office, Americans will be seeing the fruits of our labor.
 - A health care system that provides private coverage to all members of society;
 - Comprehensive coverage with an emphasis on primary care and prevention;

- A secure and stable Medicare program enhanced by prescription drug coverage and much-needed coverage of home and community-based long term care for the severely disabled; and
- A rational rate of cost growth that will free families, businesses, and governments to invest in other critical needs.
- **Welfare reform.** When you told Americans you would put an end to "welfare as we know it," you hit a responsive chord in the American people, including those in the welfare ranks. We will leave:
 - A society where work pays and where individuals take responsibility for their actions and their families;
 - A welfare system that is a way station not a way of life;
 - A new feeling among members of our future generations that opportunity and empowerment are within their grasp.
- **Children.** A special part of our legacy must be to see that America's children have more opportunity and hope. We must give them something to say "yes" to. Our children need the nurturing resources of family and community. They need to see opportunity before them. And they need their communities' affirmation of themselves and their futures. Likewise, they need the fulfilling and productive values that come with long-term commitments. These are great tasks that transcend HHS, and indeed transcend government. But there is much we can do:
 - The Head Start program must fulfill its potential by reaching all who need it and providing high-quality programs. We must leave behind a continuum of development and opportunity for children. Communities should be able to offer full-year and full-day programs. And services for our youngest children must move smoothly to school settings, as envisioned in the Department of Education's "Improving America's Schools Act." You and I know that Head Start can make a lifetime difference to thousands of children. To borrow a line from the Children's Defense Fund, we must "leave no child behind."
 - What good is Head Start and a quality education system if a child never lives to enjoy its benefits? That's why we have worked from day one to create a childhood

immunization program that makes sure that every child receives the vaccinations that can prevent diseases that maim or kill. We have already begun to achieve this outcome with the measures passed last year by the Congress. Specifically, we aim to achieve vaccination levels of at least 90 percent among 2-year-old children by 1996.

- Family preservation and support services will be developed and expanded in every state as specified in the Family Preservation and Support Act enacted last year under your leadership. Children who might have been placed in foster care will be able to remain with their families while receiving intensive services in their home. Also, more parents will be able to participate in programs, like the Arkansas HIPPY program, which enable parents to protect, nurture, and support their children.
- Prevention must take its rightful place at center-stage of our health system. We must move from a medical model of "sick care" to a preventive model of "health care." Preventing disease before it occurs, and treating it early, means better health status as well as lower costs. The Health Security Act will guarantee every American a package of preventive services with no cost-sharing. At the same time, we will increase the number of primary care physicians in our health care system, especially in under-served areas. Likewise, we are acting in many other preventive areas, both traditional and not-so-traditional:
 - Smoking continues to be the leading preventable cause of death in America. We will continue to aggressively tell our citizens the truth about tobacco use and its health consequences. Through our words and our actions, we will support the decision by individuals to quit smoking and improve their health. In particular, we will target our young people to help them avoid cigarette addiction. And an increased federal excise tax on tobacco products will provide a powerful disincentive to smoking by Americans of all ages.
 - Drug and alcohol abuse are connected with a vast net of problems in our Nation, from crime to motor vehicle mortality to domestic violence. We must do better in preventing addiction, and we must be more effective in making treatment accessible to those who need it. By making such treatment part of a comprehensive benefit package for all Americans, we will take a major step forward. By adding new drug treatment slots to our public health infrastructure we will make sure that those who want to end their deadly addictions will have a place to do so.

- Early and unprotected sex is associated both with teenage birth and disease transmission. For too long, they have been ignored at the Federal level. We must be honest and forthright in making the problem clear and addressing it in a straightforward manner. School-based health clinics, a strategy employed very effectively in your home state of Arkansas and elsewhere, must be available to all communities who want them. And the government must never again come between health care professionals and their patients by creating a barrier to prevention.
- Good nutrition is at the base of good health. Beginning this year, clear food labeling will help consumers choose a healthy diet. In addition, a better system for assuring food safety has already been devised in the Food and Drug Administration's new program for seafood.
- Violence extracts a frightening toll in America. It is, in many ways, our greatest public health peril. While we aggressively fight crime in the streets, we must also look to new, broader-scale opportunities to prevent violence before it occurs. HHS is supporting efforts to develop new tools of violence prevention -- for example, assistance to at-risk families, and teaching conflict resolution skills at young ages. We will join the private and volunteer sectors in supporting neighborhoods and communities as they work to bring violence under control.
- Basic biomedical and clinical research. My Department's support for basic biomedical and behavioral research has no parallel. This support will continue to provide a basis for economic and medical leadership by the United States. NIH-supported research into the human genome, as well as accelerated research into AIDS, cancer, and other conditions, will continue to be among the most valuable investments that can be made by government. Likewise, the epidemiological and other activities of the Centers for Disease Control and Prevention will pay off in better health for Americans.
- Women and minorities have shared too little in our Nation's health agenda. The Health Security Act will provide important new access and coverage and greater entree into the health care professions. HHS will take other steps to address women's and minorities' needs. Under your Administration, a national plan on breast cancer will be put in action. Women and minorities will take a greater part in research activities, and they will share more equally in

access to professional opportunities. Special programs will make screening better available for breast and cervical cancer, especially for poor women, and treatment for drug addiction will become more accessible for women.

- Older Americans and people with disabilities will be served better by HHS programs. Through health care reform, significant new coverage for prescription drugs will be available. A much-enhanced community-based system of long term care will be developed. And in both Social Security and Medicare, we will be serving our beneficiaries better through enhanced uses of technology and a renewed service ethic for our customers. We must renew public confidence in the Social Security system, both through excellence of service and through protecting the fiscal viability of the retirement and disability trust funds. Likewise, under the guidance of the newly-created position of Assistant Secretary for Aging, a vision will be developed to prepare the "Baby Boom" generation for productive retirement years. The 1995 White House Conference on Aging will once again bring together leaders in the aging field to develop a coherent view of the needs of our aging population.
- Customer service and cost-effective management have already become watchwords at HHS under your Administration. Improved service to beneficiaries is a prime goal for Medicare, and for fiscal year 1995, the Social Security Administration was one of the few agencies selected to receive an increase in administrative resources to improve customer service. Older and disabled Americans, in particular, will receive better service through these efforts. At the same time, the HHS Continuous Improvement Program is designed to carry out the priorities of the Vice President's National Performance Review. I am dedicated to creating an HHS workforce that is marked by diversity and excellence.

In the end, our reward -- and your legacy -- will not be expressed in terms of programs or budgets or management techniques. It will be expressed in the faces and the lives of those we have served.

It is my hope that your legacy, and mine, will be an American community that finds strength, purpose and unity in its very diversity. It will be a community that rewards those who work hard and play by the rules; a community that asks for responsibility from every member of society; and a community that comes together in time of crisis rather than splitting apart.

Page 6 - The President

With their votes last year, this is what the American people asked of us. We have taken the first steps toward achieving it and the road ahead is one of opportunity and accomplishment. I look forward to traveling it with you.

Sincerely,

A handwritten signature in dark ink, consisting of a large, stylized capital 'D' with a horizontal stroke extending to the right.

Donna E. Shalala

THE WHITE HOUSE

WASHINGTON

March 5, 1994

The Honorable Bernard W. Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Dear Bernie:

With deep regret, I accept your decision to resign as Counsel to the President. Your friendship and advice have meant a great deal to me over the years.

During your tenure, this Administration named the highest percentage of women and minorities to the Federal Judiciary in history, while meeting, in a vast number of cases, the highest standards set by the American Bar Association. These Judges and Justices will leave a lasting imprint on our case law, and their places on the federal bench will be clear and abiding signs of encouragement to those long excluded from administering our system of justice. Those serving, and those who can now dream of being considered, owe you a great debt of gratitude.

You played an especially significant role in the selections of Attorney General Janet Reno, FBI Director Louis Freeh, and Associate Justice Ruth Bader Ginsberg -- people who will make our streets safer and our society more just for years to come. They are pioneers, and yours was the lamp that lit their way.

It has been said that the best a man can give is his living spirit to a service that is not easy. And we have worked together in Washington at a time when serving is hard. But you gave this Administration one of its liveliest spirits and keenest minds, along with your special reverence for duty and friendship. For these contributions, I will be forever grateful; for your accomplishments, I hope you will be forever proud.

Sincerely,

THE WHITE HOUSE
WASHINGTON

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JOHN

I have made changes to accomodate
the views of Mark, Howard, Alexis,
Rahm and Roy. With these changes,
they all expressed support for this.

What do I do now?

Row

CC
VICKY

April 7, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BERNARD NUSSBAUM
 VINCENT FOSTER
 RONALD KLAIN
 OFFICE OF THE COUNSEL TO THE PRESIDENT

SUBJECT: JUDICIAL SELECTION

The purpose of this memorandum is to propose a process for the selection of nominees for the U.S. Courts of Appeals and the U.S. District Courts.

I. Background

As of today, there are 116 vacancies in the federal courts: these include 18 Court of Appeals vacancies, and 96 District Court vacancies. This is approximately one-eighth of all the federal court judgeships in the country. Thus, one of the most lasting legacies of your Presidency confronts us for action right now.

Among the most significant Court of Appeals vacancies to be filled are the D.C. Circuit seat, once held by Robert Bork and Clarence Thomas; two seats on the Fourth Circuit, where Clinton appointees can shift the balance on that Court away from Reagan-Bush control; four vacancies on the Fifth Circuit -- vital to civil rights concerns -- where 11 of the 13 judgeships are held by Reagan-Bush appointees; and one seat on the Ninth Circuit, now divided between 14 Reagan-Bush judges and 13 judges appointed by other Presidents.

The 96 District Court-level vacancies are spread throughout the country, but almost two-thirds of them are concentrated in just eleven states: Texas, with ten; New York, with eight; California, with six; Florida and Ohio, five each; and Georgia, Illinois, Louisiana, Massachusetts, Missouri, and Pennsylvania, each with four.

The desire for rapid action in filling these vacancies is strong, but our expectations should be realistic. President Bush, even with the advantages of unconfirmed Reagan nominees in the pipeline for resubmission -- and with many Reagan district court judges to elevate -- won Senate confirmation of only 15 nominees during his entire first year in office.

Indeed, leaving aside the Reagan carryovers, President Bush's first judicial nominations did not come until August of 1989, and, even then, consisted of just two new judges. By late-October, Bush had nominated just ten new judges total for the year. (His final count, aided by a push in late-October and November, was 19 new nominees in 1989.)

While we believe we can do better than President Bush did, time lags are inevitable due to FBI and ABA investigations of nominees; these produce an average four month gap between a tentative decision to nominate a judge, and the submission of that nomination to the Senate. Add to this a natural delay in start-up, and a further challenge posed by the lack of a full Justice Department team in place, and we can see that sending an initial package of 10-20 judges to the Senate by July 31st is an ambitious goal.

In our view, our overriding objective for the first year of the judicial selection process must be quality as opposed to quantity: firmly establishing in the minds of legal observers -- and the Senate -- the view that your nominees are being chosen for their excellence, their temperament, and their contribution to diversity -- and not due to litmus testing or political considerations.

For the long run, it is more important that our first 20 judges be acclaimed than it is for us to name 30, 40, or 50 judges this year. The fact is that, next year, we can recover lost ground in the pace of filling vacancies -- but we can never recoup the loss we will suffer if your initial nominees leave a bad "first impression."

Thus, the very best way to win prompt Senate approval of your nominees down the line is to establish the credibility of your selection process now. The degree of scrutiny, and the period of delay, that your nominees face in years two, three and four of this administration will be shaped, first and foremost, by the caliber of the nominees that we submit in year one.

II. General Considerations

Below, we outline the specific process to be used for filling vacancies on the Court of Appeals and the District Courts. But first, there are some aspects of the process that will remain constant for both sorts of nominations; we discuss them now.

A. Administration Committee

The heart of the process we propose for the Clinton Administration is an "Administration Committee," meeting at the White House, to coordinate and supervise the selection process. The goal is to promote cooperative work between the White House and the Justice Department, utilizing the resources of both units most effectively to achieve quick -- but careful -- decision making. Through the composition and design of the Committee, we hope to avoid some of the delays and turf battles that have plagued previous administrations.

Our proposal is that the following persons serve on the Administration Committee:

- Bernie Nussbaum, Vince Foster and Ron Klain, White House Counsel;
- Bruce Lindsey and/or his designee, Presidential Personnel;
- Melanne Verveer, Office of the First Lady;
- Susan Brophy, Legislative Affairs;
- Jack Quinn, Office of the Vice President;
- Representatives of the Justice Department designated by Attorney General Reno, presumably including Eleanor Acheson, from Office of Legal Policy, and the Assistant Attorney General for Legislative Affairs.

Other White House Offices -- Political Affairs and Public Liaison, for example -- would have input through those Offices represented on the Committee.

Until the initial backlog is cleared, the Committee would meet twice a week -- on Tuesdays, to review candidates for the Courts of Appeals, and on Thursdays, to review candidates for the District Courts.

The many specific functions of the Committee are discussed below. But in general, its work is to deliberate upon names, whittle down lists, review staff memoranda, and allocate responsibilities for reviewing specific nominations. As will be discussed below, at several points in the process, tasks must be assigned to either the Counsel's Office or the Justice Department; the Committee can make these assignments on an ad hoc basis.

B. Role of the Senate

You have informed Democratic Senators that they will have, under the prevailing custom, a major role in judicial selection. That role can best be summarized as follows:

- For District Court vacancies, you would expect to accord great weight to their recommendations. In making these recommendations, Senators are free to use any process they wish, and to recommend as many or as few names per vacancy as they wish -- so long as those recommendations reflect your goals of excellence, temperament, and diversity;
- For the Court of Appeals, you welcome their suggestions, and intend to give serious consideration to any person they suggest -- but you will accord no presumption or deference to these names.

With respect to the Appeals Court, the administration also retains the discretion to determine to which state within a circuit a particular seat should be allocated -- which, too, operates as a limit on the Senators' role in this area.

The question then becomes: how do we communicate this role to the Senate? Our proposal is two-fold:

- First, you send a generally-worded letter that emphasizes the standards you are setting for judicial nominees, without getting into too many specifics on process or mechanics (a draft of such a letter is attached);
- Second, you authorize White House Staff to step up face-to-face meetings with Democratic Senators to emphasize how serious we are about diversity and excellence, and how much our deference to their choices depends on their willingness to engage in a dialogue with us about who they are considering.

The sooner we get this underway, the more flexibility we will have to shape the Senators' selections. Our goal is to discuss with Senators whom they are considering sending to us, before they publicly announce their "nominees." The key to this is back-channel dialogue; Ron Klain has cautiously conducted some such meetings already, but with your approval, many more can be arranged.

C. States with No Democratic Senator

There are eleven states and three other jurisdictions (D.C., Puerto Rico, and the U.S.V.I.) where there are no Democratic United States Senators.

Traditionally, in states where there is no Senator from the President's Party, the White House has relied upon the senior Member of Congress from the President's Party to provide recommendations for judicial nominations. These recommendations do not necessarily receive the same degree of deference as do recommendations of Senators.

At the same time, this prerogative has been delegated to persons other than the senior Congressman from the President's Party. The Bush administration, in some states, looked more to the Governors, to local Bush operatives, or to other statewide figures for such recommendations. State-by-state judgments, based on the political considerations applicable to that state.

We need to begin discussions here over how we will handle this matter. Based on our initial conversations with Howard Paster and Rahm Emmanuel, we would recommend the following:

- The Political Affairs and Legislative Affairs Offices should encourage Democratic Congressional delegations to work closely with Democratic Governors to create joint processes in as many states as possible. Such arrangements already exist in Idaho and North Carolina, for example;
- This can be encouraged by permitting these White House Offices to inform Congressmen and Governors that, where they fail to unite on a choice, their divided recommendations will be given less deference than a joint proposal;
- A special arrangement is needed for the District of Columbia, where local bar leaders and local political leaders (particularly Delegate Eleanor Holmes Norton) expect more of a role -- and where the administration has historically reserved more discretion to select persons of its choosing for these courts.

We would propose to get this underway immediately, with conversations beginning on the Hill and with the Governors for the 11 states at issue (six states have one vacancy each; Missouri has four), and with our Office working with Alexis Herman to deal with the District of Columbia question.

D. Criteria for Judicial Selection

As noted above, general criteria for the selection of federal judges are outlined in a proposed draft letter to U.S. Senators. We see little need to go farther than these general nostrums.

Tremendous time and energy can be spent debating specific criteria, only to later find that exceptions are made to every set of hard-and-fast rules, when the "right" person turns up who does not meet the agreed-upon standards. Thus, rather than investing extensive efforts into formulating criteria that will ultimately be acknowledged only in the breach, we offer the following general standards to be applied:

- Litmus Tests/Ideology: Nominees for the lower federal courts will not be subjected to "litmus tests" or be drawn from a narrow ideological range, but instead, will be selected from the broad spectrum of views.
- Character/Temperament: To state the obvious, candidates for nomination must be of outstanding character and temperament. These standards are so clear, that no further elaboration is required.
- Minimum Age: Without setting any fixed minimum, nominees should be at the apex of their legal careers; on average, our nominees will be older than those of President Bush, and in only a very rare case would a nominee be under age 40.
- Maximum Age: Again, no firm age should be established. But the standard should be that the nominees be of an age and fitness to permit them to serve ten years on the bench.
- Excellence: The nominees must have shown genuine and rare distinction in their field of practice, earning the respect of their peers and their communities.
- Public Service: Nominees should have demonstrated a commitment to the public interest, in the form of significant pro bono work, time spent in public service, or through some other like contribution.
- Additional Criterion -- District Court: Moreover, nominees for the District Court must have substantial litigation experience -- including courtroom work or its substantive equivalent.
- Additional Criterion -- Court of Appeals: Nominees for the Courts of Appeals must have a demonstrated talent for legal writing, of the sort that is critical to the appellate bench.

Diversity, while not a specific criteria as to a specific person, is obviously a critical overriding concern. Of course, this means diversity with respect to race, gender, and like factors, fulfilling your pledge to nominate judges who "look like America."

But less obviously, the goal of diversity also means seeking diversity of legal experience -- under Presidents Reagan and Bush, the vast majority of nominees came from one of two legal fields: corporate law firms or criminal prosecution. Under your Presidency, candidates will come from a wider array of backgrounds: from both the public and private bars; from criminal defense and prosecution; from small and large private firms; from the civil bar's plaintiff and defense "sides."

III. Court of Appeals Process

With these general procedures and criteria as a background, we next propose a specific process for recommending to you candidates for nomination for the U.S. Courts of Appeals. Eighteen such vacancies currently exist.

A. Allocation to States

Many circuit vacancies carry with them the strong presumption that they will be filled with another judge from that state. But others are more fungible, and the administration has considerable flexibility with respect to the vacancies that are new seats, created by the Judicial Improvements Act of 1990. Of the eighteen vacancies that now exist, we have geographic discretion with respect to a total of eight judgeships.

Among the choices we face are:

- Third Circuit: A new seat was allocated by President Bush to Pennsylvania; Sens. Bradley and Lautenberg have expressed interest in seeing it moved to New Jersey.
- Fourth Circuit: Bush allocated the two new seats to Virginia and North Carolina; Democratic Senators are asking us to move them to Maryland and West Virginia.
- Fifth Circuit: There are four vacancies -- and two clearly belong to Texas. The other two must be spread among Louisiana, Texas and Mississippi.
- Sixth Circuit: Bush allocated the two vacancies to Michigan and Tennessee; Ohio wants one of these seats.
- Tenth Circuit: A new seat there had been targeted for Wyoming under President Bush; states seeking reallocation of this seat are Colorado, Kansas, and New Mexico.

Making tentative decisions on these matters should be among the first priorities of the Administration Committee as soon as it begins its meetings.

B. Setting Priorities

All 18 vacancies cannot be filled at once; and unlike the District Courts, where the receipt of names from Senators helps set our agenda on timing, we largely set the order in which we fill these positions.

In our view, we can focus on five to seven vacancies at one time. Consequently, we propose attacking the 18 vacancies in this priority order, for these reasons:

- **First Priority (7): D.C. Circuit** (this is Justice Thomas's seat, a priority due to its prestige); **Fourth Circuit (3)** (this Southern circuit is an all-white court, with only one woman member); **Ninth Circuit-California** (with one appointee, control of the Circuit is shifted from Reagan-Bush judges); **Fifth Circuit (2)** (this Southern circuit also has no blacks, and has the most total vacancies).
- **Second Priority (6): Fifth Circuit (2)** (for the same reasons as described above); **Third Circuit (2)** (this circuit, with a large African-American population, has but one black judge - - and two very old vacancies); **Sixth Circuit (2)** (with these two appointees, we come close to matching the Reagan-Bush majority on the circuit).
- **Third Priority (5): Second Circuit-Vermont** (though prestigious, this circuit is in better shape in terms of backlog than other circuits); **Tenth Circuit (2)** (one of these vacancies is relatively new, and the court backlog is lighter); **Eleventh Circuit-Florida** (with just one vacancy on this large court, it can wait); **Federal Circuit** (none of the relevant factors argue for making it a higher priority).

If this priority list is accepted, the Committee can begin to focus -- and initiate the process outlined below -- on the first seven appellate judgeships identified above.

C. Identifying Candidates/Outreach

Once the vacancies under review are targeted, the process begins. The key to this process is the consideration, by the Administration Committee, of the broadest possible collection of excellent candidates for appellate judgeships.

To achieve this, each unit represented on the Administration Committee will be assigned responsibility for systematic review of classes of potential candidates -- in addition to their collection of names of potential candidates from informal sources. Thus, for each vacancy, the following responsibilities will exist:

- **White House Counsel:** Our office will review all U.S. District Court judges and academics in the relevant area for prospective candidates. We will also work with Public Liaison on contacts with minority and womens' bar groups.
- **Legislative Affairs:** This unit will insure that persons recommended by Senators and Congressmen are reviewed.
- **Personnel:** Its major responsibility is compiling names from its files and its sources; in addition, this office will gather names from Political Affairs.
- **Melanne Verveer:** Melanne will consult with informal advisors to the administration, and others familiar to her.
- **Justice Department:** They will compile candidates from the state bench, and from the ranks of those recommended by local bar leaders.

The goal is to have "on the table" a large number of candidates for each Court of Appeals vacancy, reflecting diverse backgrounds, professional careers, philosophies, and credentials.

D. Sorting the Names

As a result of the initial discussion of the candidates, the Committee will hopefully narrow the field for each vacancy to no more than 20 candidates.

The subsequent sorting of this large field will be done in five steps:

1. Initial Inquiries

Our Office and the Justice Department will then share responsibility for collecting basic information (resumes and major publicly available materials) concerning each of the candidates. In addition, each Committee member will take responsibility for discussing the potential nominees with appropriate advisors to that person.

At the next Committee meeting, the product of this research and these inquiries will be discussed, with a goal of narrowing the list to eight to ten candidates per vacancy. The obvious criteria to be applied in this process are diversity and excellence: the list should be diverse, and all candidates on it should meet our high standards of excellence.

2. Public Record Research Reports

At this point, our Office and the Justice Department would assume responsibility for preparing public record research reports on the candidates. (These would be similar to the reports prepared on candidates for the Cabinet.) The reports would be based on:

- Resumes and basic biographical materials;
- Review of published articles about the candidates;
- Analysis of the judicial opinions or academic writings of the candidates, where appropriate.

The goal would be to produce a report on each of the eight to ten candidates, for discussion at the next Committee meeting. After reviewing the reports, the Committee would narrow the list to approximately three finalists per vacancy.

3. Forms for Candidates

At this point, the three candidates would be notified that they are under active consideration, and would be sent forms to be completed, to facilitate our further review of their candidacy. (In some cases, if a Senatorial candidate does not make the final three, that person may need to be sent forms, and interviewed (see below) in any event.)

These forms would be the following:

- The SF-86 (the FBI Background Check Form);
- The Personal Data Questionnaire (a version of the Presidential Personnel Form used for other senior level applicants) and confidential Medical and Financial Questionnaires; and
- The Senate Judiciary Committee Questionnaire for judicial nominees.

We should ask for the latter because, seeing it completed will give us the best sense of what issues might arise during confirmation, so that those issues can be taken into account as part of our consideration of the candidate.

While there is overlap in the forms, each does have its separate purpose -- and subsequent steps in the process will proceed more quickly if all of the forms are completed at this stage.

4. Interviews

At this point, the three (or four, as outlined above) finalists per vacancy would be interviewed by a representative of the Justice Department and the Administration Counsel's Office. Each candidate would be interviewed only once, with all interviewers present at a single session, lasting approximately two hours.

Interviewing three candidates per vacancy (as opposed to the single-candidate interviews used to fill many sub-Cabinet jobs) is warranted here for two reasons:

- First, candidates for judgeships are less likely to be known to administration decision-makers than are candidates for senior posts within the administration -- thus, interviews with more candidates are required;
- Second, "runners-up" in the judicial selection process are more likely to be serious contenders for subsequent positions (i.e., future judgeships) than are "runners-up" in the bidding for administration jobs.

In any event, the interviews would explore professional background, the candidate's interest in and approach to judging, philosophy of judicial decision-making, and areas of legal expertise and interest. Judicial philosophy would be discussed, but the candidate's views on specific legal issues -- and specific cases -- would not be solicited.

While the interviews would not be background "vetting" checks, the question of any liabilities -- or assets -- that the potential nominee brings to the confirmation process would be discussed.

The interviewers would report on the product of the interviews at the first Committee meeting following the interviews.

5. Personal Checks

At the same time that the interviews are on going, all members of the Committee will be making inquiries about the finalists with relevant legal experts, constituencies, bar leaders, and others who merit consultation. The idea is to obtain, from the largest possible spectrum of persons, a sense of the caliber of the potential nominees, the likely reaction to those nominees, and the perception of those nominees.

Aside from these general checks, the Justice Department and the Counsel's Office will share responsibility for making extensive and appropriate inquiries in the potential nominees' communities, to ascertain the potential nominees' reputation and qualifications. The forms completed -- particularly the PDS and the Judiciary Questionnaire -- will be the basis for these checks.

E. Selecting a Tentative Nominee

Based on: (1) the interviews, (2) the personal checks, (3) the public background reports, and (4) the completed forms, the Committee will recommend one putative nominee to you. It will do so by reaching a consensus on that recommendation, through its deliberations. In rare cases where a consensus cannot be reached, the Committee may recommend two candidates, for your final decision.

A memorandum transmitting the recommendation to you will be prepared by the Counsel's Office, or the Department of Justice, as appropriate. The memorandum will outline the candidate's qualifications, and the factors that yielded the recommendation on his or her behalf, as well as any negative facts of which you should be aware.

If you concur in the Committee's tentative recommendation, the name of the putative nominee is turned over to:

- The FBI, which will do a full background investigation, and report back to the White House Counsel (this takes approximately one month);
- The ABA, which will perform its evaluation process and report back to the White House Counsel or the Justice Department, as appropriate (this takes approximately two months).

There will be no public announcement of an intention to nominate at this point. On a selective basis, key Senators may be informed of the tentative selection.

F. Final Recommendation to the President

After these investigations are completed, a report of the results will be made to the Administration Committee. The Committee will weigh any problems in the FBI Report, and the ABA's evaluation of the prospective nominee, and determine whether to recommend to you that you proceed with the nomination.

If the decision is to recommend the nominee, a final memorandum will be sent to you, briefly redescribing the nominee's background and outlining any potential confirmation problems that have arisen in our review.

If you accept the recommendation, you should call the prospective nominee, and offer him/her the position. Upon the nominee's acceptance -- and appropriate advance notification of the key Senators and political leaders -- the nomination will be announced and formally submitted to the Senate.

Because the FBI Check and the Senate Committee Questionnaire will be completed before the public announcement of the nomination, there will be no announcement of an intention to nominate. Instead, the first announcement will be of the nomination itself, which will -- under this plan -- be immediately ready for Senate action.

Thus, hopefully some of the extra time consumed in selecting a nominee can be "made up" by the fact that, once selected, the nominees are immediately ready for Senate consideration -- unlike sub-Cabinet nominees, who must be investigated between their public announcement and their formal nomination.

A subsequent memorandum will outline a process for dealing with the confirmation of nominees. However, in general, it is anticipated that the Justice Department's Office of Legislative Affairs will take the lead on non-controversial nominees, with the White House Offices of the Counsel and Legislative Affairs taking the lead on controversial candidates.

IV. District Court Process

The process for selecting District Court judges has some similarities with the above -- but many differences. These differences are shaped primarily by the dominant role that Senators play in this process, and by the vastly larger numbers of vacancies: currently, a record 96 District Court judgeships are vacant.

A. Setting the Agenda and Priorities

Here, unlike the Court of Appeals, the agenda is set largely by the timing of Senatorial recommendations: because the work is overwhelming, we will find that our handling of these vacancies is sequenced largely by the order in which we receive recommendations from Senators.

Thus far, we have received recommendations from just five Senators, covering only eight of the 96 vacancies. (A current status report is attached.) Many Senators have informed us that they are employing screening or review panels to advise them; these panels will begin to report to Senators in April, with a flood of names likely to arrive here between mid-April and mid-May.

Once the names flood in, and we are forced to prioritize among those that arrive at approximately the same time, several factors should play a part in the decisions as to whom to "move" first:

- Diversity: One way to reward Senators who help us promote diversity is to move nominees who reflect this agenda -- and other nominees recommended by the same Senator -- to the front of the line. (In addition, this will help our earliest nomination packages have the best statistics on diversity.)
- Excellence: Similarly, the strongest nominees should be put at the front of the line: again, it encourages the selection of excellent nominees if Senators come to understand that we will move such persons first.
- Urgent Needs: Finally, nominations for judicial districts with urgent needs (not necessarily those with official "judicial emergencies," which are simply vacancies that have been open for more than 18 months) should receive a higher priority.

Based on these criteria, and the names we currently have, the Committee should first review the following six candidates for review: Trager and Batts from New York; Alexander and Davis from Minnesota; Shannahan from Nebraska; and Hagen from Nevada. (This list consists of two women/four men; three blacks/three whites.)

B. Promoting our Candidates

The most difficult challenge in the District Court selection system is promoting particular candidates we want for District Court vacancies (as opposed to insisting that Senatorial candidates meet our criteria). This is particularly difficult in states where Senators have implemented merit selection or outside screening panels; i.e., where the initial culling down of lists is beyond the Senator's control.

The key to having any success in this endeavor is identifying immediately any individuals whom we wish to suggest to Senators for their consideration. The sooner we contact Senators with suggested names for their review, the easier it will be for Senators to accommodate our views into their planning.

Thus, at the first two Committee meetings, all members should come to the table with the names of individuals we wish to recommend to Senators for their consideration.

Of course, we may choose to nominate one of "our" people in lieu of a Senator's candidate at any time. But these conflicts will slow down the process, and add to discord between the branches, often needlessly. Instead, we will do better to compile a list of candidates whom we are very serious about, and begin to ask Senators to put our candidates into their mix.

C. Review of Recommended Names

Once we receive a recommended name from a Senator, our review process begins. The process will be similar to the process outlined above, however, it differs because it focuses -- from the start -- on a single candidate.

1. Initial Review

At the first Committee meeting after a name is received (and at the very first Committee meeting, with respect to the six names listed above), the Committee will perform a cursory review of the candidate recommended by the Senator.

The purpose of the review is to determine whether, at a threshold level, the candidate arguably meets our selection criteria. The review will also consider the Senator's efforts on diversity, and whether any candidates we suggested to the Senator were adequately considered.

In all but a very few cases, candidates recommended by a Senator will proceed to the next phase, where substantial evaluation begins. If a candidate does not even pass cursory review, we will immediately notify the Senator of this fact, and ask him or her to work with us to quickly supply a replacement candidate.

2. Forms for Candidates

Once passing the cursory initial review, the recommended candidate would be sent forms to be completed, to facilitate our further review of his/her candidacy.

These forms would be the following:

- The SF-86 (the FBI Background Check Form);
- The Personal Data Questionnaire (a version of the Presidential Personnel Form used for other senior level applicants), plus confidential Medical and Financial Questionnaires; and
- The Senate Judiciary Committee Questionnaire for judicial nominees.

We should ask for the latter because, seeing it completed will give us the best sense of what issues might arise during confirmation, so that those issues can be taken into account as part of our consideration of the candidate. Again, while there is overlap in the forms, each does have its separate purpose.

3. Public Record Research Reports

While the candidate is completing his or her forms, the Justice Department will assume responsibility for preparing public record research reports the candidate. (These would be similar to the reports prepared on candidates for the Cabinet.) The report would be based on:

- Resumes and basic biographical materials submitted to us by the Senator who recommended the candidate;
- Review of published articles about the candidates;
- Analysis of the judicial opinions or academic writings of the candidates, where appropriate.

The goal would be to produce a report on the candidate, for discussion at the next Committee meeting after the candidate's forms are received and reviewed.

4. Review Before Interview

At this point, the Committee will review the forms and the public record research report, and make a determination as to whether the candidacy should proceed. Here, since the interviews would be of only one candidate, the interview should not proceed unless there is an initial determination that the candidate meets our selection criteria, and would be someone we would recommend to you for nomination.

This means that members of the Committee will be making inquiries about the candidate with relevant legal experts, constituencies, bar leaders, and others who merit consultation. The idea is to obtain, from the largest possible spectrum of persons, a sense of the caliber of the potential nominees, the likely reaction to those nominees, and the perception of those nominees.

Aside from these general checks, the Justice Department will have responsibility for making extensive and appropriate inquiries in the potential nominee's community, to ascertain the potential nominee's reputation and qualifications. The forms completed -- particularly the PDS and the Judiciary Questionnaire -- will be the basis for these checks, which consists largely of contacting lawyers against whom, with whom, and before whom (i.e., judges) the candidate has practiced, to obtain a sense of the candidate's legal abilities.

At the next Committee meeting, after all of this work is completed, the Justice Department representatives will present a report on the candidate's professional review, and the review of the forms and background reports. Our Office will provide its views on the latter two items. Finally, all members of the Committee will present the results of their contacts with their relevant sources.

If the Committee concludes that it would otherwise recommend the candidate for nomination, the candidate will be invited for an interview.

5. Interviews

With respect to District Court nominees, the interviews are the final check, to insure that the prospective nominee meets our criteria. The candidate will be interviewed by representatives of the Justice Department and the White House Counsel's Office. The candidate would be interviewed only once, with all interviewers present at a single session, lasting approximately two hours.

The interview would explore professional background, the candidate's interest in and approach to judging, philosophy of judicial decision-making, and areas of legal expertise and interest. Judicial philosophy would be discussed, but the candidate's views on specific legal issues -- and specific cases -- would not be solicited.

While the interviews would not be background "vetting" checks, the question of any liabilities -- or assets -- that the potential nominee brings to the confirmation process would be discussed.

The interviewers would report on the product of the interviews at the first Committee meeting following the interviews.

D. Tentative Recommendation to Nominate

Based on: (1) the interviews, (2) the personal checks, (3) the public background reports, and (4) the completed forms, the Committee will decide whether to recommend the putative nominee to you.

A memorandum transmitting the recommendation to you will be prepared by the Counsel's Office, or the Department of Justice, as appropriate. The memorandum will outline the candidate's qualifications, and the factors that yielded the recommendation on his or her behalf, as well as any negative facts of which you should be aware.

If you concur in the Committee's tentative recommendation, the name of the putative nominee will be turned over to:

- The FBI, which will do a full background investigation, and report back to the White House Counsel (this takes approximately one month);
- The ABA, which will perform its evaluation process and report back to the White House Counsel or the Justice Department, as appropriate (this takes approximately two months).

There will be no public announcement of an intention to nominate at this point. However, in most cases, the Senator who recommended the candidate will be informed of the tentative selection.

E. Final Recommendation to the President

After these investigations are completed, a report of the results will be made to the Administration Committee. The Committee will weigh any problems in the FBI Report, and the ABA's evaluation of the prospective nominee, and determine whether to recommend to you that you proceed with the nomination.

If the decision is to recommend the nominee, a final memorandum will be sent to you, briefly redescribing the nominee's background and any potential confirmation problems we have identified in our review.

If you accept the recommendation, you should call the prospective nominee, and offer him/her the position. Upon the nominee's acceptance -- and appropriate advance notification of the key Senators and political leaders -- the nomination will be announced and formally submitted to the Senate.

Because the FBI Check and the Senate Committee Questionnaire will be completed before the public announcement of the nomination, there will be no announcement of an intention to nominate. Instead, as with the Court of Appeals nominees, the first announcement will be of the nomination itself, which will - under this plan -- be immediately ready for Senate action.

V. U.S. Attorneys and U.S. Marshals

For the sake of completeness, we note that the question of U.S. Attorneys and U.S. Marshals is not being overlooked here: it is the subject of a separate process, being coordinated by Personnel (Kevin O'Keefe, for Bruce) and the Justice Department. The Counsel's Office will not be involved, except to "clear" such nominees as it clears all Presidential nominees.

VI. Action

With your approval, we will begin to put this plan into action immediately, and send the attached letter to Democratic Senators.

_____ APPROVE

_____ DISAPPROVE

_____ DISCUSS

DRAFT

Letter to Senior Democratic Senators¹

Dear :

As you know, one of the most important duties assigned to me under the Constitution is my responsibility to nominate men and women to serve as judges in our federal courts. It is an obligation that I take seriously, and that I intend to discharge with care and concern.

My primary objective in exercising this duty is to preserve and restore the prestige of the federal courts, and to diminish the role that political or ideological factors have played in judicial selection. The values that I intend to promote in my selection of judges for the District Courts and Courts of Appeals are excellence, diversity, and temperament -- with the aim of putting the very best people that the legal profession has to offer on the federal bench. Candidates for these nominations will not be subjected to "litmus tests" or be drawn from a narrow range, but instead, will be selected from the broad spectrum of views, backgrounds, and experiences.

With respect to criteria for selection, let me offer the following. First, candidates for nomination must be of outstanding character and temperament. These standards are so clear and obvious, that no further elaboration is required.

Beyond this, I will seek to nominate men and women who are at the apex of their legal careers. While there is no minimum or maximum age for nomination, I would expect that -- on the one hand -- my nominees will be, on average, older than those of my predecessor. On the other hand, I will want nominees to be of an age and fitness to permit them to serve at least ten years on the bench.

As to experience, nominees must have shown genuine and rare distinction in their field of practice, earning the respect of their peers and their communities. We are looking for men and women who are the finest of the profession, and who have established track records that prove it.

Next, candidates for nomination should have demonstrated a commitment to the public interest, in the form of significant pro bono work, time spent in public service, or through some other like contribution to the public good.

¹A special letter would be sent to: Senator Moynihan, because of New York's peculiar process; Senators Feinstein and Boxer, who have agreed to treat themselves as equals for this purpose; Senator Biden, acknowledging his role as Chairman of the Judiciary Committee; and the three Democratic Senators (Reid, Wellstone, and Exon) who have already sent us their names.

In addition to these criteria, candidates for nomination to the District Court must have substantial litigation experience -- including courtroom work or its substantive equivalent. Candidates for nomination to the Courts of Appeals must have a demonstrated talent for legal writing, of the sort that is critical to the appellate bench.

Historically, Senators have played an important role in this process; a role derived from your constitutional responsibility to provide your "advice and consent" with respect to my nominations. It is my view that this historical role should continue, guided by the contemporary considerations I have outlined above; i.e., the promotion of excellence and diversity in the federal judiciary.

Specifically, with respect to District Court vacancies, I will be happy to receive your recommendation of one or more candidates for nomination for each position that exists. Upon receipt of your recommendation, we will begin to review that person's record to insure that he or she meets the criteria I have outlined above. If we determine that a person you have recommended fails to meet these criteria, we will discuss with you alternative candidates for the position.

The final decision as to whether to nominate a recommended candidate rests, of course, with me.

In reaching your recommendation, you are free to utilize whatever process you believe -- based on your understanding of your state's bench and bar -- will be most effective. [I would expect, however, that you would closely consult with your state's other Senator in formulating your recommendations to me.]

With respect to vacancies on the Courts of Appeals, I would welcome your suggestions of possible candidates for these positions. I will insure that the individuals you suggest are considered as we review potential nominees for these courts.

When you are prepared to recommend or suggest individuals for nomination to the federal courts, please forward the candidates' names, and basic biographical material, to both Attorney General Reno and myself. These individuals will be contacted by the administration within two weeks from the time your materials are received.

If you have any questions regarding these criteria or procedures, please feel free to contact General Reno or my Counsel, Bernard Nussbaum.

Sincerely,

William J. Clinton

DRAFT

Letter to Junior Democratic Senators²

Dear :

Attached is a letter which I have sent today to your colleague, Senator _____, regarding judicial selection.

As you can see, in this letter, I have asked _____ to work closely with you in making recommendations and suggestions to me regarding judicial vacancies.

If you have any questions regarding the criteria I have outlined in my letter, or procedures therein, please feel free to contact Attorney General Reno or my Counsel, Bernard Nussbaum.

Sincerely,

William J. Clinton

²A special letter would be sent to Senator Kerrey, who has already submitted names jointly with Senator Exon.

THE PRESIDENT HAS SEEN

1-3-94

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

NOV 15 1993

MEMORANDUM FOR THE PRESIDENT

FROM: LABOR SECRETARY ROBERT B. REICH *bs*

SUBJECT: Public Jobs for the Disadvantaged

I thought you would be interested in this discussion paper which was prepared by my staff. It proposes a public jobs program for the disadvantaged, modeled after the CCC, and offers several alternative models, at different levels of funding. I think the idea is worth pursuing. Let me know if you wish to discuss.

cc: Bob Rubin

Mail/Bob

cc: GS

*This is a
great piece
and worth discussing
on own merits & as a part
of long term welfare reform*

B.

ALLEVIATING UNEMPLOYMENT AMONG THE DISADVANTAGED: USING THE CCC AND OTHER PUBLIC JOBS PROGRAMS OF THE NEW DEAL AS A MODEL FOR A NEW JOBS INITIATIVE

The sheer lack of suitable job opportunities appears to be an enduring obstacle to employment for many Americans. The overall official unemployment rate is much higher, on average, than it was several decades ago, as is the rate of long-term unemployment. Moreover, double-digit unemployment can be found in many pockets of the country and is endemic in our nation's inner cities.

Joblessness among U.S. males has increased particularly dramatically over the past quarter century. The nonemployment rate for prime age males was almost twice as high during the expansion of the late 1980s as it was during the expansion of the late 1960s. Virtually all of the trend toward rising male joblessness is accounted for by rising unemployment and nonparticipation among less-educated and low-wage individuals.

Increases in persistent joblessness have been most pronounced among young black males living in America's inner cities. Approximately 40 percent of out-of-school black males aged 16-24 are currently out of work. In some inner cities, 60 percent or more of less-educated, young black males are nonemployed. William Julius Wilson and others have hypothesized that increased joblessness among black males is a driving force behind the decline in two-parent families among inner city blacks and accompanying high rates of poverty, welfare dependency, violence, crime, and drug abuse in urban America.

The employment problems of disadvantaged individuals in today's inner cities are similar in scope to the employment problem faced by the nation as a whole during the Great Depression. As part of the New Deal, President Roosevelt started a number of public jobs programs aimed at getting money into the hands of desperately poor families. Collectively, these programs were quite substantial both in terms of the number of persons served and the proportion of GNP and the federal budget spent on them. Many buildings, bridges, roads, airports, and national and State parks still exist today that were constructed by these public jobs programs. Over the years, there has been an enduring appeal to the concept of putting unemployed persons to work in useful public works projects.

This paper describes the New Deal public jobs programs and options for developing analogous policies to address the problems of persistent joblessness, particularly among disadvantaged groups. The paper begins with a brief summary of the nature of the problem. It then discusses the design and operation of the New Deal programs; efforts over the years to re-establish these programs; current public employment efforts at the federal and state level; the potential role of a new public jobs programs in relation to the joblessness of disadvantaged Americans; and issues and options related to re-establishing national public employment programs.

I. The Problem of Persistent Joblessness among the Disadvantaged

The absence of job opportunities is more than a transitory phenomenon for many workers. Overall, the national unemployment rate has averaged 6.6 percent in the 1990s, which is lower than its 1980s average, but is about 2 percentage points higher than its average in the 1950s and the 1960s. Much of the increase in unemployment is accounted for by a rise in the amount of long-term unemployment (i.e., individuals experiencing unemployment for 27 weeks or more).

Concern about the enduring lack of employment opportunities is especially concentrated among particular regions of the country or particular groups of workers. West Virginia stands out as an entire state where unemployment consistently stands at double-digit levels, but double-digit unemployment is common throughout the Appalachian region and in many of the nation's inner cities as well. While Americans are quite geographically mobile and migration from declining to expanding areas is a hallmark of U.S. labor market adjustment, many find it difficult to escape the inner city, and less-educated workers face diminished earnings prospects throughout the nation.

Among particular groups of workers, there has been a marked deterioration in the labor market faced by less-educated and less-skilled males over the past 25 years.¹ This deterioration has been true for white and Hispanic males, but it has been concentrated among black males. It has shown up in terms of both increased unemployment and decreased labor force participation. Much of this decline involves persistent joblessness--individuals are essentially jobless 52 weeks out of the year. We have a growing class of persistently non-employed individuals. These same groups with substantial declines in employment rates have also experienced dramatic declines in real hourly wages over the last twenty years.

Table 1 illustrates the declining rates of employment of black males. As the table shows, employment for black males has fallen sharply since the late 1960s. Employment rates for white males have also dropped during this period, but much less markedly. Large declines in employment are also apparent over the same time period for out-of-school black teenagers.

¹Although white collar unemployment became a larger problem in the United States during the early 1990s, more educated and skilled workers are better able to adjust to labor market changes than are the less skilled who lack the education, training, and connections to take advantage of emerging labor market opportunities. Despite continued corporate downsizing, managerial and professional employment is coming back and has expanded at a moderately brisk pace over the past year.

Table 1

Employment Rates among Black and White Males, 1954-92

Age	Blacks and Other Non-Whites					Whites				
	1954	1964	1977	1981	1992	1954	1964	1977	1981	1992
20-24	.76	.78	.61	.58	.58	.78	.79	.81	.77	.76
25-54	.86	.88	.82	.79	.78	.94	.94	.91	.91	.88

There are a number of factors that may have contributed to this decline in the employment as well as the real and relative wages of black men, particularly young black men, since the late 1960s:

- o There has been a shift in relative labor demand against blue-collar work and against less-educated workers; these shifts had a disproportionately adverse effect on blacks, and especially on black males. The decline in manufacturing hit young, black males in the midwest hardest of all.
- o Slow economic growth and weak labor markets throughout much of the last twenty years have limited the opportunities in the labor market for young black males.
- o The large influx of women into the labor force in the last 30 years may have decreased the competitive position of young black males in the labor market. Robert Topel of the University of Chicago has presented some suggestive but far from conclusive evidence indicating that the problems of less-skilled males appear to have been greater in regions with a more rapid increase in female labor force participation. But many potential omitted factors could drive this correlation.
- o There has been a shift in employment opportunities out of central cities and into the suburbs.
- o Inner-city public schools have not responded adequately to the changing economic structure of our country. Not enough success has been made on preventing youths from dropping out of school despite the large decline in the number of low-skilled manufacturing jobs that previously provided decent earnings to male high school dropouts.
- o Many successful professional and working class blacks have moved out of inner cities, leaving behind high concentrations of the poor--a process which

may have removed the influence of many positive role models and "enforcers" from the inner city and, inadvertently, assisted the erosion of social norms concerning work and family responsibilities.

- o There has been a decline in Federally funded employment and training programs for disadvantaged workers and youth in the 1980s, thus taking away a buffer to the lack of job opportunities for disadvantaged individuals in America's inner cities.
- o There was a decline in the intensity of affirmative action pressure and anti-discrimination activities during the 1980s --and this may have eroded to some degree the labor market position of young black college graduates.
- o The end of the Cold War and the downsizing of the military has also reduced a major avenue for upward mobility, education, and training for black males.

Economic changes (especially labor demand shifts away from manufacturing and weak labor markets) may have started the downward cycle for black males, but persistent joblessness has in turn contributed to social changes in urban communities (increases in crime, violence, and drug abuse, and breakdowns in the traditional family) that now make it very difficult to deal with the labor market problems in inner cities. This problem is not unique to U.S. urban areas. Persistent joblessness associated with industrial decline in the North of England appears to be connected to increased crime, drug use, and violence and a rapidly expanding "underclass" in formerly stable working class areas. Similar phenomena have been observed in high unemployment parts of southern Spain and Italy.

A stronger economy, rapid private sector employment growth, and tighter labor markets are a necessary condition for improving job prospects for young black men and other disadvantaged groups in America's inner cities, but the extent of the problems and the experience of the boom of the late 1980s suggest economic growth by itself unassisted by policies designed to specifically deal with the problems of high poverty areas may not be sufficient to reverse recent trends. Extremely tight labor markets in the late 1980s in places such as Boston and New Jersey temporarily improved employment prospects for disadvantaged workers, but did not make a substantial dent into reversing trends towards increasing violence, neighborhood disintegration, and persistent poverty.

Besides a strong economy, sound policies of investments in communities, education, and training are also needed to improve economic and social conditions in high poverty areas. The Administration has started this process with the Empowerment Zone initiative, the Youth Fair Chance initiative, and an expansion of the Job Corps. Furthermore, broader policies concerning life-long learning such as the school-to-work initiative, reform of student loans, National Service, and the comprehensive worker adjustment program can

potentially play an important role in improving labor market prospects for disadvantaged individuals. Welfare reform is another important component of the agenda.

Two key policy issues remain regarding the persistent joblessness of many disadvantaged Americans:

1. Is direct job creation (either through public works or public service employment) a necessary supplement to training and education programs? Can it raise demand for disadvantaged individuals and thereby reduce overall joblessness and increase incomes in high-poverty communities in a manner consistent with promoting work and responsibility? Such programs can also produce socially beneficial outcomes such as more and improved parks, reforestation, and other public works and social services.
2. What other broad initiatives aimed at disadvantaged youth are necessary to raise their aspirations, increase their educational attainment, and make them competitive for jobs that pay enough to support a family? Do we need large new federal investments in inner-city elementary schools and secondary schools? In helping disadvantaged youth learn about, apply for, and enroll in college? In expanding sports and recreation programs in inner-city neighborhoods? In reforming job training programs (especially JTPA Title II) to provide more comprehensive services to youth?

Even with the Administration's other initiatives, some direct job creation may be necessary to make sure that jobs exist at the end of training programs. Direct job creation--particularly if targeted towards high poverty communities--may be able to keep joblessness down and also get money into poor neighborhoods. If progress can be made to reduce persistent joblessness and maintain tighter labor markets in high poverty areas, other social problems will be much easier to handle. The combination of private sector oriented policies such as Empowerment Zones and Community Development Banks can be combined with jobs programs to make a truly comprehensive approach at improving the situation for the disadvantaged.

II. Public Jobs Programs of the New Deal

While there were several federal work relief programs in operation during the Great Depression, the most notable programs were the Civilian Conservation Corps (CCC), the Works Progress Administration (WPA), the Public Works Administration (PWA), and the National Youth Administration (NYA). Of these, the CCC is generally regarded as the most popular and successful, while the WPA was by far the largest.

1. The CCC put young men from poor families to work in conservation projects on our country's public lands. Work projects included reforestation, fighting forest

fires, building national and state parks, fighting floods, and soil conservation. Many national and state parks now in existence were originally built by the CCC, and many buildings and cabins constructed by the CCC in these parks still exist today. The National Arboretum here in Washington D.C. was developed in large part by the CCC.

The CCC was in operation between 1933 and 1942. It was an entirely residential program operated out of work camps. The Army was responsible for food, shelter, and discipline at the work camps, while agencies such as the Forest Service, Interior Department, and Soil Conservation Service were responsible for the work projects. The Department of Labor was responsible for recruitment.

The CCC had a peak enrollment of 500,000, but an enrollment of between 250,000 and 300,000 was more typical. This was quite a large program. By contrast, the current Job Corps program has an enrollment of 40,000.

For the first five years of the program, enrollment was limited to young men ages 18 to 25 living in families on relief rolls. In 1937, legislation changed the age group to 17 to 24 and allowed unemployed men from non-relief families to enter the program. Initially, local woodsmen and carpenters were opposed to the creation of the CCC, thinking it would cost them work. But this opposition was muted by hiring them as work supervisors in the program. Five percent of work slots in the program were reserved for hiring adult men as work supervisors.

While the main purpose of the CCC was to get money to poor families, the program also aimed at conducting useful work. Thus, large proportions of the program funds went towards maintaining residential camps necessary for conducting work in wilderness areas, skilled supervision, and materials and supplies. Roughly 45 percent of program funds went to enrollee wages. By contrast, over 80 percent of funds in the Public Service Employment (PSE) programs of the 1970s went to employee wages. But the 1970s programs are remembered as being much less successful than the CCC.

2. The WPA was the New Deal's largest work relief program. It provided federal funds for work projects operated by State and local governments. Unlike the CCC, the WPA was a non-residential program. Persons had to be at least 18 years-old to enter, but there was no upper age limit. Eligibility for the program was based on family need, but persons did not have to be on direct relief to participate. However, at one point, the WPA's deputy director reported that 95 percent of enrollees came from relief rolls. Enrollment was limited to one person per poor family. The program peak enrollment was 3.3 million, and typically had an enrollment of over 2 million.

The WPA conducted a wide variety of work projects, but it put most people to work doing manual labor on construction projects. Work projects included building sidewalks, street curbs, school athletic fields and stadiums, parks, playgrounds, swimming pools, water lines, and landing fields. Non-construction WPA projects included sewing clothes, serving school lunches, teaching literacy, and canning food. The WPA also sponsored projects for writers and artists, as well as local orchestras. Eighty-eight percent of federal WPA funds were spent on wages, although State and local governments could supplement the federal funds with their own money for materials and supplies. These State and local funds enabled the WPA to conduct construction projects, and meant that for many WPA projects much less than 88 percent of funds went towards wages. Over its existence, the WPA built or reconstructed 617,000 miles of new roads, 124,000 bridges and viaducts, and 35,000 buildings. Notable projects included the construction of New York's Central Park Zoo, the Philadelphia Art Museum, and La Guardia Airport.

During most of the WPA's life, there were no restrictions on how long a person could remain in the program. Enrollees did, however, have to accept private sector jobs if they were available. Legislation in 1939 required that anyone in the WPA for over 18 months had to leave the program for 30 days. At that time, it was estimated that 17 percent of all enrollees had been in the program 3 years or more. In New York City, 42 percent of enrollees had been in the program for over three years.

3. The PWA differed from the WPA in that it funded federal, State, and local construction projects conducted through private contractors. Due to the use of private contractors, funds were not directed at the poor but rather more generally at increasing employment. Thus, the PWA was a public works program rather than a public jobs program. The PWA preceded the WPA, and once the WPA was established a division of responsibility was established whereby the WPA would concentrate on light construction and service projects and the PWA would conduct heavy construction through private contractors. The Grand Coulee dam was built by the PWA. The PWA's peak enrollment was 540,000.

4. The NYA included work programs for both in-school and out-of-school youth. These were relatively cheap, non-residential projects. Most jobs were part-time. The NYA can be seen as the antecedent of the Neighborhood Youth Corps of the 1960s and the current Summer Youth Employment Program, although it is unclear whether these latter programs were designed in any way based on the NYA experience. Peak enrollment was 808,000.

Some observations on these depression-era programs include the following:

- o President Roosevelt and Congress understood that direct income support was cheaper than work relief. Estimates were that work relief was 37 percent more expensive than direct relief. Nonetheless, the President and Congress decided to go with work relief because of a general loathing for simply paying out cash welfare to persons. There were people at the time who argued that direct relief could serve more people.
- o Besides providing income support, public jobs programs can also produce useful work. There was within the Roosevelt Administration a recognized trade-off between these two goals. The conflict between these goals was evident in decisions on how selective to be in hiring workers, what projects to conduct, whether to use private contractors, how much funds would be spent on supervision, and how much funds could be spent on equipment, materials, and supplies. Within the Administration, there were advocates of both the income support and the useful work goals. The different work relief programs varied in the emphasis placed towards each goal. The WPA was aimed mainly at income support, and a high proportion of its funds went to wages for the participants. By contrast, the PWA and CCC spent a much greater proportion of their funds than the WPA on supervision, equipment, and materials.
- o Combined, the New Deal work relief programs employed about 4 million people a year out of a total population of less than 130 million. This would be the equivalent of employing 8 million people today in public service employment. The WPA's \$1.36 billion annual budget made up over 10 percent of the federal government's budget and over 1 percent of the country's GNP. An equivalent expenditure relative to GNP today would amount to a public works program costing more than \$60 billion a year.

III. Previous Efforts to Re-Create Public Jobs Programs

The New Deal public jobs programs were discontinued with the need to mobilize the armed forces for World War II. As the end of World War II approached, President Roosevelt spoke in his 1945 State of the Union address about an American Economic Bill of Rights and his plan for continued public works projects. However, no major public jobs programs were enacted at the end of the war.

As part of the War on Poverty, the Neighborhood Youth Corps was established in 1964. The program included year-round components for both in-school and out-of-school youth, as well as a summer component. The focus of all three components was to provide work experience for economically disadvantaged youth ages 16 to 21. The in-school program provided part-time jobs for 15 hours a week, while the out-of-school program provided

full-time jobs. Like the Job Corps, the program originated in the Office of Economic opportunity, and then was switched the Department of Labor.

The Neighborhood Youth Corps was a fairly large program. In FY 1968, for example, the in-school component had an enrollment of 135,000 youth; the out-of-school component had an enrollment of 63,000 youth; and the summer program employed 340,000 youth. The Department of Labor continues to run both year-round and summer programs aimed at disadvantaged youth, but the focus of the year-round programs has shifted away from employment to job training for out-of-school youth and preparing in-school youth for the labor market.

Also during the War on Poverty in the 1960s, large-scale public employment was proposed to address the high levels of unemployment among inner-city adult males. Secretary of Labor Willard Wirtz argued strongly for a major public jobs program, and the Kerner Commission on the 1967 Riots recommended a program that would create 1 million public sector jobs in three years. In 1971, a public jobs program was established by Congress, and operated under various designs and at varying funding levels for the remainder of the 1970s.

In the meantime, there were several attempts in Congress to re-create the CCC. Bills to re-create the CCC were introduced in 1947, 1950, 1957, 1959, and 1963. In 1964, Congress established the Job Corps, in large part based on the CCC concept. The legislative history of the Job Corps suggests that Congress intended to establish a training program in the Job Corps contract centers, and to establish a work program like the CCC in the Job Corps conservation centers. But the conservation centers developed into construction training programs rather than work programs.

In 1970, Congress established the Youth Conservation Corps (YCC) as a summer program for 16-19 year-olds operated by the Interior Department and the Forest Service. In 1975, a state component was added to the YCC. In 1977, Congress enacted the Young Adult Conservation Corps (YACC) as a year-round program for 16-23 year-olds as part of the Carter Administration's Youth Employment and Demonstration Projects Act (YEDPA).

Like the summer YCC program, YACC had separate components operated by Interior, the Forest Service, and the States. Unlike YCC, funds for YACC were allocated through the Department of Labor and DOL retained an administrative function over the program. The program was funded at roughly \$225 million a year, with an enrollment of about 20,000.

In many respects YACC replicated the CCC. However, it was a much smaller program than the CCC, and was designed and operated much more cheaply than the original CCC. While the CCC was entirely residential, YACC was required by legislation to be 25 percent residential--but it never quite reached that figure. While the CCC spent only

45 percent of its funds on enrollee wages, DOL first required YACC to spend 60 percent--and later 70 percent--of its funds on enrollee wages. This sharply curtailed the supervision, materials, supplies, and equipment that could be used by the program--and thus the scope of the work projects.

Both YCC and YACC fell victim to the budget cuts started by President Carter and carried through by President Reagan.

IV. Public Service Employment in the 1970s

The Public Employment Program (PEP) was signed into law in 1971, and was funded at roughly \$1 billion a year. At its peak, it provided employment for about 185,000 persons. Most jobs were created in local and State government agencies. Eligibility was open to anyone unemployed for a week or more, was working less than full-time involuntarily, or working full-time at wages that provided less than a poverty-level income. Sixty-four percent of participants were white, 72 percent were male, only 26 percent were high school dropouts, 31 percent had some post-secondary training or education, and only 12 percent were welfare recipients. The average wage was \$2.87 an hour, when the minimum was \$1.60 an hour.

In 1973, the Comprehensive Employment and Training Act (CETA) was passed, and PEP was replaced by a public service employment (PSE) program aimed at structural unemployment. Funds were to be disbursed to areas of unemployment of 6.5 percent or more. In late 1974, Congress added to CETA a countercyclical PSE program. The legislation for both of these programs specified that at least 90 percent of funds be used only for wages and employee benefits of participants. In June of 1975, enrollments stood at 280,000 for both of these programs combined. The jobs in these PSE programs were mainly in State and local government agencies, and participants were mainly white, male, and high school graduates. Only 36 percent were economically disadvantaged.

Amendments to these PSE programs in 1976 were aimed at reducing the fiscal substitution of locally paid workers with federally subsidized workers. These amendments restricted eligibility to persons who had been unemployed 15 of the previous 20 weeks, and required that in the countercyclical program all newly hired workers beyond the number needed to sustain State and local governments at their existing PSE level be assigned to special projects that would last no more than one year. During the spring of President Carter's first year in office, Congress authorized another \$4 billion for PSE programs. Enrollment in these programs increased from 300,000 in May 1977 to 755,000 in April 1978. Also during this period, the proportion of job slots going to community based organizations increased greatly to 25 percent of the program.

There was a large difference in the types of people hired for the State and local government "sustainment" slots and those hired for the one year special projects in local

governments and CBOs. Enrollees in special projects were more likely to be minority, high school dropouts, and welfare recipients.

Job slots in the sustainment component of PSE tended to be in the areas of property maintenance, public works, street repair, aides in police and fire departments, and park maintenance. Special project slots also included work in park and street maintenance, but more generally were in social service positions such as teacher's aide, health aide, child care, social work, drug counseling, recreation aide, school lunchroom aides, library assistants, hospital attendants, and clerks in social welfare agencies. In 1977, the average wage paid in sustainment positions was \$4.50 and the average wage in project jobs was \$4.32. The minimum wage at that time was \$2.30. In 1978, slightly less than 10 percent of PSE participants were AFDC recipients.

In 1978, amendments to CETA further tightened eligibility requirements, lowered the limits on what PSE workers could be paid, and required job training to be provided to participants. Also during this period, the Carter Administration planned to use public service employment as a key part of its welfare reform initiative. The idea was to provide heads of AFDC households with minimum-wage PSE jobs, but the Carter welfare reform initiative did not become law.

Funding for PSE declined sharply in 1979 and 1980, and in 1981 the Reagan Administration terminated the program. In FY 1980, 85 percent of PSE participants had incomes below the poverty line at intake, and 17 percent were welfare recipients. As more disadvantaged persons were served by PSE, the wages paid in real terms declined. While in 1977 jobs in the sustainment component of PSE paid almost double the minimum wage, the average PSE wage in 1980 was only 26 percent higher than the minimum wage of \$3.10 an hour.

It is difficult to derive a cost per slot figure for PSE programs under CETA--the programs fluctuated so much from year to year that a steady state was never achieved. Based on restrictions on how much could be used for purposes other than wages and employee benefits, a rough estimate is that the cost per slot was around \$10,000 in 1980. Adjusting for inflation, this would amount to about \$17,250 today. However, pegged instead to changes in the minimum wage--which has not kept up with inflation, this would amount to about \$13,200 per slot. If we paid only the minimum wage, the equivalent PSE job today would cost \$10,600 a slot (\$8,840 of which would be in wages).

Observations about the CETA PSE programs that are relevant today are as follows:

- It is feasible to mount a large public service employment program in a short period of time, and potential PSE slots do exist in State and local governments and community based organizations. The \$4 billion (the equivalent of \$9 billion today) PSE program operated in 1977 had over 700,000 enrollees.

- The CETA PSE program differed fundamentally from the depression-era CCC and WPA programs in that CETA simply incrementally added workers to existing programs. CETA was a public service employment program, not a work projects program. CETA did not build new parks or roads as the CCC or WPA did. This explains why the CETA PSE programs were so relatively cheap. They involved minimal extra supervision, equipment, and materials. Re-creating the CCC today, with some of the light and medium construction that it did in building State parks, would probably cost about \$20,000 per slot (assuming \$8,840 in wages would constitute roughly 45 percent of expenditures per slot). WPA projects varied greatly, and would probably range in costs today from \$10,000 to \$25,000 per slot. CETA PSE programs were much cheaper. The lack of explicit and visible projects created by CETA also made it more difficult to defend than the WPA or CCC in the face of anecdotes concerning make-work jobs, fraud, and abuse.

V. Current Programs

State and local Conservation Corps. While federal funding for YCC and YACC ended during the 1980s, interest in conservation and service corps continued in State and local governments. The premier State conservation program is the California Conservation Corps. The California CCC is the closest thing going to replicating the old CCC. The California program has 18 residential centers spread across the State, plus non-residential satellites to these centers. The program has an enrollment of 2,000 youth and a budget of over \$50 million. Work projects include reforestation, stream clearance, fighting forest fires, fighting floods, and trail development. The California CCC would likely be the model for any efforts to re-create the original CCC. Evaluations of the residential component of the California CCC have found that it has been successful at producing in-program earnings gains for out-of-school youth, but it does not appear as successful in terms of long-term gains as the Job Corps, a residential work-experience program with a much stronger educational component.

Overall, there currently are 75 year-round or summer service and conservation corps operated at the State or local level. The combined budgets of these programs are \$180 million, and roughly 20,000 youth participate in them each year. (These programs on average are cheaper than the California CCC because they are almost exclusively non-residential and many are summer-only programs).

Summer Youth Employment and Training Program. The Department of Labor continues to operate a large summer youth employment program each year. This past summer approximately \$1 billion was spent on the program, and 656,000 youth ages 16-21 were served. This represents the largest existing public service employment program operated by the federal government. Funds are distributed on a formula basis to local

areas, which then administer the program. Places of work include public schools, government agencies, hospitals, and non-profit organizations.

An evaluation of the 1993 program conducted by Westsat found that enrollees were conducting real and productive work, and learning the work ethic. There was little evidence of "make-work" projects. Both employers and youths were enthusiastic about the program.

The study also found that there was a shortfall in available job slots in almost all local areas, and that more youth could have been served if more funding had been available--indicating that disadvantaged youth do want to work if given the chance. Expanding the summer youth employment program--and extending its educational component year-round--could be a useful complement to a new public service employment initiative.

National Service. The President's new National Service initiative will provide for a modest expansion of State and local service and conservation corps programs. The expansion will not be all that great, as the National Service initiative will have a budget of only \$500 million a year, and much of this will go towards the educational trust and to a variety of programs other than the service and conservation corps.

Re-establishing the CCC could fit in exactly with what the Administration's goal of expanding the national service concept. Conservation corps programs provide youth and young adults with an opportunity to work towards improving the environment. The California Conservation Corps, for example, pushes the notion that corps members are there to serve the State of California. Conservation corps programs also allow youth who have not gone on to college a chance to do national service--a good balance to many service programs aimed mainly at college graduates. A public jobs program for adults based on the WPA could similarly be tied to national service themes.

VI. A New Public Jobs Program in Relation to the Joblessness of the Disadvantaged

A new jobs program aimed at disadvantaged individuals could be targeted specifically on high-poverty areas. Targeting a public jobs program on high-poverty neighborhoods would keep the costs of the program manageable, while at the same time allowing us to serve a sufficient proportion of the area's population to have a potential impact on community values regarding work and the family. A program targeted on high-poverty communities could reach a significant proportion of both the black and the Hispanic poor. Overall, 58 percent of the black poor and 43 percent of the Hispanic live in 20 percent or higher poverty areas, and perhaps 25 percent of the black poor live in 40 percent or higher poverty areas.

Such a program could make a significant dent in nonemployment among youths in depressed areas, potentially having a positive effect on social mores about work.

Assuming that 75 percent of enrollees in a public jobs program would be males and that almost all enrollees in these programs would be between 18 and 34 years-old, a public jobs program of 240,000 slots would serve slightly more than an estimated 10 percent of non-employed males in this age group in these geographic areas.

Restricting the public jobs programs to 30 percent or 40 percent poverty areas would much more sharply focus them on minority groups. For example, in 20 percent poverty areas, roughly 41 percent of the population is non-Hispanic white, 38 percent is non-Hispanic black, and 19 percent is Hispanic. In 40 percent poverty areas, 26 percent of the population is non-Hispanic white, 47 percent of the population is non-Hispanic black, and 22 percent is Hispanic. A public jobs program of 240,000 slots targeted on 40 percent or higher poverty areas could serve over a third of non-employed males ages 18-34 in these areas.

An issue regarding the use of public jobs to fight joblessness in high poverty areas is that a large proportion of enrollees may need to stay in public jobs over several years. Evaluations suggest that most existing job training programs have only a marginal impact on the long-term employment levels of enrollees.² There is little reason to believe that public employment programs would have a larger impact than job training on subsequent employment rates. But a large scale jobs program in high poverty areas can potentially keep labor markets tighter and improve employment prospects for other residents and for those leaving the programs.

It may be possible to design a public jobs program that provides for natural transitions to private sector jobs by focusing on jobs involving skills that may be in demand in the private sector. If we targeted public jobs to such occupations, enrollees could over time make a transition to the private sector. Nevertheless, it should be kept in mind that it is very difficult to make accurate projections of this type.

VII. Design Issues Regarding Re-Creating Public Jobs Programs

1. Scale. Should the Administration be interested in developing jobs programs analogous to the CCC and/or the WPA? At what funding levels? Each has its comparative advantages. A CCC-type program would give youth and young adults a more intensive residential experience, which is more likely to have a long-term impact on their lives. A WPA-type program would be relatively less expensive and thus able to serve more people. It is more appropriate for persons over 25 than the CCC.

²The gains from traditional training programs, such as JTPA Title II, appear to be more substantial for disadvantaged adults than for disadvantaged youths. More intensive programs with a variety of services appear more effective for youth.

The CCC would be a complement, rather than a substitute, for the Job Corps. Even with its proposed expansion over the next several years, the Job Corps will serve each year less than 4 percent of the 2.4 million economically disadvantaged youth between the ages of 16 and 21. The Job Corps and the CCC would attract slightly different populations of youth--the Job Corps being more appealing to youth interested in training, the CCC more appealing to youth who want to work outdoors and perform national service.

It would cost about \$5 billion a year to replicate the CCC at its 1930s level; \$800 million a year to replicate it at the 40,000 enrollment level of the Job Corps; and \$400 million a year to replicate it at the 20,000 enrollment level of the 1970s YACC program. It would take \$6 billion a year to replicate the WPA at an enrollment level of 500,000; and \$1 billion to replicate it at an enrollment level of 80,000.

2. Cost versus Quality of Work Projects. Non-residential CCC could be operated as cheaply as \$12,000 per slot and WPA programs could be operated as cheaply as \$10,000 per slot. To do so, however, would require sacrificing any attempt to make these quality programs with quality work projects.

3. Public Works versus Public Jobs. This is the distinction between the depression-era PWA and WPA programs. It is possible to increase employment by investing in public works projects, and then letting private contractors bid to do the work. This is aimed at increasing employment levels generally. Public jobs programs directly target the work to particular groups, such as youth, the unemployed, or the poor. Both types of programs can have a role in public policy.

4. Eligibility. There are several options for deciding who should be eligible for CCC and WPA programs. They could be restricted to the economically disadvantaged, to high school dropouts, to AFDC recipients and the fathers attached to these families, or left untargeted. Modern-day CCC programs--including the YCC, YACC, the California CCC, and most current State and local conservation corps--are left untargeted. This enables these programs to avoid placing any stigma on enrollees and to stress to enrollees that they are there to serve the public good. At the same time, these programs tend to attract a population that is comprised of 50 to 60 percent high school dropouts.

5. Geographic Targeting. A possible way to target CCC and WPA programs to the poor but to avoid stigmatizing enrollees would be to geographically target these programs to residents of 20 percent or 40 percent poverty areas. Applicants would then not have to show proof of poverty-level income, yet we would still be reaching the population in greatest need in both urban and rural areas.

6. Youth versus Adults. We would need separate programs for youth and adults. We cannot just shove youth into a program designed for adults. Research strongly suggests that programs designed for adults are not effective for youth. A CCC-type program makes sense for youth, possibly with a residential component and an urban non-residential component. Experience with YACC suggests that residential programs work best when dealing with a fairly narrow age range of participants--say the 18 to 23 year-old age range served by the California CCC. Non-residential WPA programs could be aimed at adults.

7. Residential versus Non-residential. CCC programs can be operated more cheaply in a non-residential setting, but much of the appeal of the old CCC was its residential setting. Most likely, residential programs such as the Job Corps and the CCC have a much greater chance of turning around a young person's life than non-residential programs. The difference in cost between residential and non-residential programs are not as great as one would suspect, in that typically room and board is taken out of the paycheck of residential enrollees. This is true in the California CCC and was true in YACC. Evaluations have also shown that non-residential CCC-type programs appear less successful for youth than residential CCC-type programs.

8. How Long Enrollees Can Stay in the Program. At first thought, it would appear to make the most sense to limit the length-of-stay in CCC and WPA programs to perhaps a year. However, many inner-city and rural males may have very dim prospects of finding private sector employment, and limiting the length-of-stay in these programs will only result in giving these persons a one-year reprieve out of poverty. The programs may be more effective if persons have the possibility of staying in these programs somewhat longer. Long stays in a WPA program could be avoided by restricting the jobs funded by the program to occupations with large projected job growth, thus making for a natural progression to private sector jobs. The program could also require that enrollees rotate into a two-week job search assistance program every six months as a way of moving people into private sector jobs.

9. Possible Role of The Army. The Army had a significant role in the original CCC in being in charge of the discipline and logistics of the work camps. The Army has not had a role in modern-day CCC programs, but perhaps with the end of the Cold War it does now make sense to involve the Army in these programs. The Army could take on the same role in residential CCC camps as it did in the 1930s, and surplus Army Corps of Engineers equipment could be used to enable the program to conduct larger construction projects than were done under YACC in the 1970s.

10. Availability of Work Projects. The Interior Department and the Forest Service have a backlog of work projects more than sufficient to provide jobs for a

CCC program at any level at which we could afford to fund it. Reforestation has many ecological benefits, and for all practical purposes, there is an almost unlimited number of jobs that could be created in this area. There is much rehabilitation work that needs to be done in our National Parks. New State Parks could be developed, trails could be built and maintained, and cabins and shelters constructed. There will also be much conservation work as a result of the great floods this year in the Midwest.

WPA projects could most appropriately be designed around putting enrollees to work in high-growth occupations which can directly lead to private sector placements. Gardening and landscaping is a high growth occupation, and there is much need in our cities for tree planting and park development. The construction trades are high-growth occupations, and there is substantial need in inner cities for housing rehabilitation and the construction of moderate-income homes. As was done in the 1930s, opposition by skilled workers can be countered by hiring these workers as foremen.

11. Avoiding Claims of Waste and Abuse. How can we make sure that a new jobs program is not hit with claims of waste and abuse? Such claims--for the most part, exaggerated--eventually came to define the CETA PSE programs. Avoiding such claims was a major concern of the National Service staff in designing their program. To maintain political support for a public works or public service employment program, we will need to keep close track of concrete accomplishments by such a program (e.g. trees planted, miles of road constructed, major projects completed, elderly served, etc.). This will be necessary to counteract anecdotes of fraud and abuse that will inevitably occur.

12. Relation to Welfare Reform. Public jobs programs can address welfare dependency both by employing welfare recipients and by attempting to get at one of the main causes of long-term welfare dependency--male joblessness. It is likely that under the Administration's proposed plan to limit AFDC receipt to two years, a public jobs program will be developed for recipients who reach their time limit on AFDC and still cannot find work. There will remain a need to deal with the conditions of inner-city poverty and male joblessness that many believe are strongly linked to much long-term welfare dependency.

13. Political Interest. There currently is some political interest in re-establishing public jobs programs. In January, Senators Boren, Daschle, Inouye, Levin, Pryor, Reid, and Simon introduced a bill to establish a jobs program similar in design to the WPA. In the last Congress, Senator Simon introduced a large guaranteed public jobs program. Senator Wofford was instrumental in starting the Pennsylvania Conservation Corps when he served as Secretary of Labor and Industry prior to becoming Senator, and he has promoted re-establishing the CCC. Congressman Wendell Ford has advocated for a large public works programs. In

1983, the House passed legislation to create an American Conservation Corps funded at \$300 million a year. The Senate subsequently passed a much toned-down version, but it was vetoed by President Reagan. Mickey Kaus, the journalist and social critic, has also proposed a large public works program as a way of dealing with inner-city poverty. Re-establishing the CCC could be tied to the clean-up of the Mississippi River flood. The California CCC is an impressive program, and Administration officials may want to visit it to see what a national CCC could look like.

14. Example Proposals. Re-establish the CCC at a 40,000 enrollment level (making it an equivalent program in size to the Job Corps) and the WPA at an enrollment level of 200,000, and restrict these programs to residents of 20 percent or higher poverty areas. Assuming that 75 percent of enrollees would be males and that almost all enrollees of these programs would be between 18 and 34 years-old, we would be serving slightly more than 10 percent of the non-employed males in this age group in these geographic areas. The cost would be \$800 million a year for the CCC and \$3 billion for the WPA. If the programs were operated at the same scale but restricted to residents of 40 percent or higher poverty areas, over a third of the non-employed males between 18 and 34 years-old in these areas would be served. This would be approaching a scale large enough to dramatically change social and economic conditions in these target areas.

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THE WHITE HOUSE
WASHINGTON

DATE: 01/03/94

NOTE FOR: SECRETARY HENRY CISNEROS

The President has reviewed the attached, and it is forwarded to you
for your:

Information ☒ X

Action ☐

Better late than never.

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:

THE WHITE HOUSE
WASHINGTON

DATE: 01/03/94

CAROL RASCO
ROBERT RUBIN
GEORGE STEPHANOPOULOS
GENE SPERLING

NOTE FOR:

The President has reviewed the attached, and it is forwarded to you
for your:

Information ☐

Action ☐

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
WASHINGTON, D.C. 20410

This is very very good
THE PRESIDENT HAS SEEN
1-3-94 B.

TO: President Bill Clinton
FROM: Secretary Henry G. Cisneros
DATE: November 24, 1993

Mr. President, I have two subjects to draw to your attention:

1. Our nation's cities and communities are in deeper trouble than I imagined when you nominated me to be Secretary of HUD a little less than a year ago. The crime that is so widely reported is but one manifestation of our nation's pain. I join all who have applauded the speech you delivered in Memphis last week, at once heartfelt and Presidential. I also know that while you are correct that there is much that we as Americans must do in the realm of civic engagement and moral renewal, that our people need help from their government. There will come a moment when people will say: "Yes, Mr. President, we hear you, but we need your help. We need you to do something". Already the critics say we have no beef behind our good intentions on matters of urban investment and race.

Mr. President, those critics are wrong. You have in place the threads of programs which can be woven together into a coherent fabric of urban policy. They require careful interweaving to make a whole, but what you have already put in place makes a formidable list:

Earned Income Tax Credit--will lift 20 million of the working poor out of poverty.

Permanent Extension of Mortgage Revenue Bonds--will support affordable homeownership for 130,000 first-time homebuyers per year.

Permanent Extension of Low Income Housing Tax Credits--will generate financing for 135,000 new units of affordable housing per year.

Full funding of Head Start--will expand education opportunities for 1.4 million low-income children.

Expanded Childhood Immunization--will double the rate of immunization, for 3.6 million at-risk children per year.

National Service--will create 100,000 new community service workers in the next 3 three years.

Empowerment Zones and Enterprise Communities--will provide economic empowerment for 6 million people in 104 low-income communities and create 140,000 jobs per year.

Strengthening the Community Reinvestment Act--will increase community lending by up to \$5 billion per year.

Anti-Crime Legislation--will put 100,000 more police on community streets.

Equally important are your initiatives in process:

Community Development Banks--will generate \$2 billion in community investment and create up to 80,000 new jobs.

Welfare Reform--will move half a million adults from welfare to work.

Health Care Reform--will provide basic coverage for 37 million uninsured people.

Worker Training--will assist or retrain 1.6 million workers per year.

I believe the time has come to pull these efforts together and explain how they support each other and work together. Through a series of Presidential actions you could articulate the themes that tie these programs together into a meaningful whole. Such an effort would answer the critique that we have no urban commitment and are unwilling to speak to the program needs of the urban poor beyond focusing on self-help ideas. I believe you can do this - stressing those programs that broadly touch all Americans (i.e., health care) - in a way that does not alienate suburban voters. I do believe it is important that you speak to your urban base and describe what you are doing for poor and working people. After the President has spoken it will also allow those of us in the departments to appropriately present the Administration's urban strategy when we are called upon to do so. You are already doing a lot; it is time to pull it all together. People know you were right in Memphis, just not finished.

2. My second point relates to themes that strike a rhetorical middle ground between your Memphis points and old-style urban advocacy. You see, I don't believe you will be able to speak for much longer about what people must do for themselves concerning family disintegration and couch the issues in the rubric of concerns about crime. Nor can you revert to the sixties language of big scale urban strategies; there isn't enough money, no one believes they would work, and the congressional will is non-existent. But I believe you will have to find a way to speak of urban problems because they are so

acute.

We at HUD have been working on two themes which give coherence to our work and which may be useful to you:

A. The first is our answer to Jack Kemp's much touted resident ownership program. We will arm you with a homeownership record that will dwarf what Kemp could have done with his approach. We are calling it "Project Transitions". The idea is that we can help people step up a ladder of assistance and climb toward self-sufficiency. It implies policies which are dynamic, providing movement upward to something better, instead of static services. This is easy enough to visualize, but hard to carry out because so much is actually related to "reinventing government". It is making diverse government agencies and functions come together so that we help people climb from one step to the next, reinterpreting government's role so that we see our responsibilities as preparing people for a next stage.

At HUD, Project Transitions will take many forms. It will mean helping residents in public housing move from welfare dependence to gainful employment. In many cases, we have the jobs -- generated by public housing rehabilitation, lead-based paint abatement and other federally-funded activities. In fact, we are required by law to use federal housing assistance to create jobs for low-income residents. What we need is training, education, child care services, union involvement; supports that other agencies -- DOL, HHS, DOE -- can and should provide.

Project Transitions will also mean helping working families -- in public housing and elsewhere -- move from renter status to homeownership. In many areas, we have single family homes available for sale -- from FHA's inventory of defaulted homes. What all working families need is homeownership counseling -- to prepare them for the burdens of owning. We're seeking a tripling of funding for our counseling programs. In some cases, they may need mortgage subsidies. That's why we're experimenting with using rental vouchers for homeownership; many low-income families already receive federal support for rent -- why not take the logical next step and use it for mortgage payments.

We believe this will be our answer to the previous Administration's version of ownership, which was to sell large public housing developments to the tenants. That idea was flawed in that it did not address massive deferred maintenance and was not accurate about the amount of subsidy needed for residents without jobs. We expect we can transition tens of thousands more families to stable homeownership than ever imagined. This has never been done using public housing as the base. It can be a major success as a strategy that you will be able to point to over the next several years.

To apply this concept of "transition" more broadly requires the spirit of reinvention. It requires a driving force such as I believe the Community Enterprise Board will be with the Vice President as the chair. As I have worked on HUD's version of Project Transition, I have found that it has immediate appeal among such diverse experts as the staffs of Senate committees, national housing providers, and mayors. I submit it to you as one of those themes that can help you pull your human programs together, can give context to your "reinventing" efforts, and can infuse an upward momentum into your community-building message.

B. Another theme has helped us bridge the perennial dilemma at HUD as to whether we should concentrate our efforts on revitalizing poor neighborhoods or providing mobility for people to get out. It is a classic argument that pervades every discussion about urban policy. Our answer is that we must assist every American to achieve real choices about where they wish to live. People should be able to choose. If they wish to live in a central city area, that should be a choice; but living amidst drug dealing, violence and deterioration is no way to live: it is no choice. On the other hand, if people can afford to live in suburban settings, but are prevented by discriminatory housing practices or unfair mortgage lending then they have no choice. The operative conclusion for HUD, then, is that we must work on parallel tracks - central city neighborhood revitalization and mobility and fair housing. Our job is to help people achieve maximum choice.

You may find the idea of "choice" a useful rhetorical construct for a whole series of policies that have diminishing acceptance with the general public: civil rights, fair housing, equal employment opportunity, and urban policies. To the general public the idea of choice suggests we are willing to level the playing field, but it is still up to individuals to choose what they want to make of opportunities. To many minorities, achieving a position in society where real choices are possible is a far cry from today's experience. Choice implies fairness, it implies treatment as equals, it implies a world of mature judgements where individuals can chart their destinies, it implies our system works for everyone. It allows you to work on essential policies, though they may have lessened appeal to the general public, by stating them in the basic language of giving Americans a fair choice.

CLINTON NURTURES HIGH HOPES . . .

Before a roomful of black educators who'd gathered to watch him sign an executive order on Nov. 1 to benefit historically black colleges, President Clinton came to the end of his prepared remarks, took a deep breath and started to describe "a very disturbing article" he'd read that morning in *The Washington Post*. It was about the impact of crime on children in an especially grim neighborhood of the nation's capital. Most moving to Clinton was the description of an 11-year-old girl who was planning her own funeral.

He hasn't stopped talking about her since—on NBC News's *Meet the Press*, at a White House news conference, at the Memphis church where the Rev. Martin Luther King Jr. had foreshadowed his own death the night before he was killed. And he shows no signs of stopping. Clinton, as well as his wife, a White House official said, has sent word to the staff that crime "is an issue [that he plans to] spend a lot of time on in the near future," at a succession of public events in the wake of the tumult over the North American Free Trade Agreement.

But it's clear that Clinton has more in mind than crime. His trail of talk about crime, a senior aide said, is "a sort of a cultural attack on the kind of violence and dissolution of society that comes in advance of trying to fix" the underlying problems of poverty. By using crime as the springboard for an effort to reverse the social decay, Clinton might avoid some of the political pain that Democrats have suffered in earlier, sporadic attempts. At his Nov. 10 news conference, he seized on an innocuous question about his plans to combat crime to deliver a heartfelt plea about the larger problems.

"We have to rebuild families and communities in this country," he said. "We've got to take more responsibility for these little kids before they grow up and start shooting each other. I know the budget is tight, . . . but I'm telling you, we have to deal with family, community [and] education" and to find jobs for members of society's underclass to bring structure to their lives.

"We have to make our people whole again," he declared four days later in Memphis.

Not only in his rhetoric but also in the array of policy initiatives that his Administration has in mind, Clinton has shown signs of the ambitiousness about righting

social wrongs that President Johnson showed. "In the next 40 years, we must rebuild the entire urban United States," Johnson said in unveiling the Great Society in a 1964 commencement address at the University of Michigan.

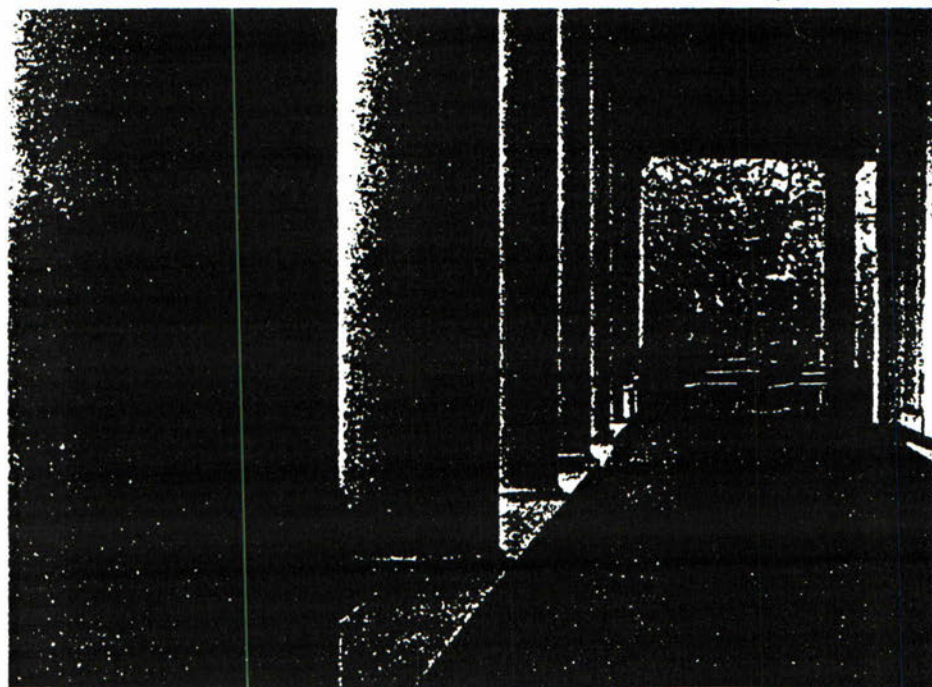
Clinton and his advisers seem to be thinking on a similar scale. "The Achilles' heel of the American future," Housing and Urban Development (HUD) Secretary Henry G. Cisneros warned in an interview, is "an angry, growing, rigid underclass" that, if left to languish, will jeopardize the nation's standard of living beyond the first quarter of the next century. "I don't think it is our ambition to end poverty with federal initiatives," Cisneros said, but "I think the President believes he can make a dramatic dent in poverty, in homelessness, in crime and the other pathologies" by the end of a second term in office if the economy thrives and if Washington works in tandem with state and local governments, businesses, labor unions, churches and other institutions.

Clinton matches Johnson's passion about addressing society's ills, "but he and the people around him don't have the same level of confidence that we know all the answers," William A. Galston, a deputy White House domestic policy adviser, said. So far, they're feeling their way, toward an ideological amalgam of the Left and Right that views the gov-

ernment as something of a catalyst. But if the theology has remained fuzzy, some of the themes are becoming clear. Clinton's advisers profess a disdain for the big bureaucracies that the Great Society used and a preference instead for solutions designed locale by locale. They speak of "leveraging" federal dollars and "empowering" communities to solve their problems themselves.

Their approach is similar to the notion of "empowerment" that a network of conservatives in the Bush Administration pushed as a response to social needs. But there's a big difference. President Bush's domestic activists got quashed in the Administration's inner councils. Clinton's are getting somewhere.

Clinton hasn't packaged his policies into a flashy whole and may have no intention of doing so. But his Administration has been moving on a lot of fronts. Some of his proposals are already in place. The budget bill enacted in August created nine "empowerment zones" and 95 "enterprise communities" to be eligible for \$3.5 billion in federal help; it also expanded the earned-income tax credit, which Galston described as "a giant step toward the abolition of the working poor in this country." At HUD, \$100 million was added to the budget to try new ways for cities to thwart homelessness, \$113 million more to move poor families into



... FOR RIGHTING SOCIETY'S WRONGS

better neighborhoods as well as smaller amounts that foundations and labor union pension funds may parlay into \$200 million spent in poor communities.

In September, Clinton set up a Cabinet-level Community Enterprise Board, chaired by Vice President Albert Gore Jr., that's supposed to help communities cut through the thicket of rules and to better fit the federal aid they get to local problems. Gore and his staff spent the fall getting counsel from panels of experts on parts of a "community empowerment" agenda, including creative ways to finance business expansion and to spur communities into plotting action. Within six months, Gore's staff hopes to design an application process that, by itself, will prompt local officials to think of new ways to ease society's troubles. "Of course we don't know how to solve" the sorts of problems that cause children to plan their own funerals, Elaine Ciulla Kamarck, a domestic policy adviser to Gore, acknowledged. But, she added, "you do find . . . a program here, a program there" that has shown successes and can be emulated elsewhere.

Other Administration proposals are inching through Congress. The crime legislation that's moving toward enactment would subsidize the hiring of as many as 100,000 police officers by local communities that craft shrewd plans for using

them. Also running the congressional gantlet is a bill that would create a string of "community development banks" to lend money in neighborhoods that commercially minded banks ignore. Congress is also considering HUD's wish to fiddle with its rules so that public housing tenants who find jobs don't see their rents rise in lockstep with their incomes.

Other proposals are in the wings. Administration officials have been fashioning a welfare reform plan that is likely to become a political centerpiece for Clinton next year. The Departments of Justice and of Health and Human Services (HHS) are spearheading work on what Clinton recently described as "a comprehensive approach to the whole issue of violence in our society." HHS Secretary Donna E. Shalala, at Clinton's behest, set up an advisory committee that is expected to swiftly uncork proposals to extend the Head Start program beyond 4 and 5-year-olds to enroll younger children. In a recent speech, Carol H. Rasco, Clinton's top domestic policy adviser, committed the Administration to set up a high-level interagency group to ponder the problems of children and families.

Combined with Clinton's hope to extend health insurance to all Americans, "you have much more than an anti-crime agenda," Cisneros said. "It does seek to deal with the larger social questions."

How successfully, however, is far from clear. For one thing, Clinton's agenda is bulging already—notably, with health care reform. Can poverty be made a major thrust, too? "You got me," a White House official replied. "The Administration has many major thrusts."

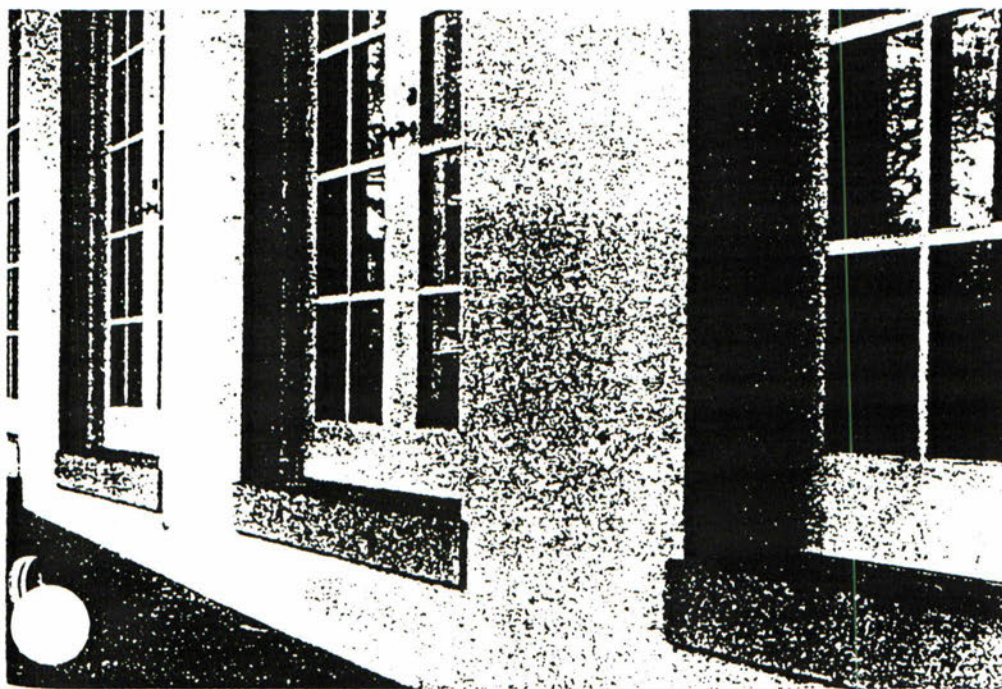
Nor are Administration officials of a single mind about the course they're on. Some at HHS are said to have fought a waiver the Administration recently granted to Wisconsin to try a reform similar to what Clinton wants—to give welfare recipients two years of far-reaching help before cutting them off. The decision aggrieved the Children's Defense Fund, which Hillary Rodham Clinton and Shalala once chaired and whose founder and president is Marian Wright Edelman, the wife of Shalala adviser Peter Edelman. The waiver was granted because "the President just insisted," an Administration confidant said.

A bigger hindrance to Clinton's social policy ambitions is money. "A lot of these social experiments are not going to be cheap," Will Marshall, the president of the Progressive Policy Institute and a champion of empowerment, said. Community policing costs a bundle, he said, and so does welfare reform, at least in the short run. And the steps that are cheap aren't likely to have as much impact. But with health care reform so costly and the federal debt unrelenting, there's "no fucking money, c'mon," a White House aide said. "Not a prayer."

Instead, Clinton's activists are hoping to dip into billions of dollars that Congress appropriated for housing but Bush never spent, squeeze more from outsiders and put the money already at their disposal to smarter use. Clinton also plans to mount the bully pulpit, as federal officials have done to discourage smoking and illegal drug use.

Rhetoric, of course, goes only so far. Clinton could issue daily exhortations against, say, teenage pregnancy and still fail to stanch a trend that sociologists blame for so much else. And he must be careful not to raise expectations for more change than he can deliver. Unmet expectations helped to trigger the urban riots of the 1960s.

But Clinton needn't abolish poverty or crime to make a mark. Just to get the trends of social decay moving in the right direction at last, Galston said—"that's the legacy we want to leave."



DANIEL J. EDELMAN, INC.

1420 K Street, N.W.
10th Floor
Washington, D.C. 20005
Phone 202. 371-0200
FAX 202. 371-0490
FAX 202. 371-2858
Telex 6501454152 MCI

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MEMORANDUM

TO: Todd Stern
FROM: Leslie Dach
DATE: November 17, 1993
SUBJECT: Microsoft

Bill Gates, Microsoft CEO, will be one of the Seattle co-hosts of the Presidential Reception at APEC, and will be spending some time with the President in the receiving area.

I have enclosed two recent press stories on Microsoft and the Administration's technology policy, Gates' pro NAFTA oped from the Washington Post, and the script of his pro NAFTA TV ad for USA*NAFTA.

You might find them useful for your briefing materials.

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The Boston Globe

TUESDAY, NOVEMBER 9, 1993

Justice Department miscue

LESTER THUROW

THE REST OF THE WORLD MUST WATCH us with a mixture of envy, horror, and wonder.

The envy comes from the fact that the US computer software industry sells 75 percent of the prepackaged software in the world and controls 50 percent of the overall worldwide market for all software sales and services; \$20 billion in sales are made to foreigners each year. This is one of the industries of the 21st century that everyone would like to capture -- a labor-intensive industry with growing employment (420,000 people now work there in the United States) paying high wages. It is the stuff of national economic dreams.

The horror springs from the fact that the Justice Department is thinking about bringing an antitrust case to hobble the most powerful firm, Microsoft, in the industry -- a firm with a 50 percent market share for personal computer operating systems but a 6 percent overall market share.

In an antitrust tradition that dates back to the dinosaurs, "big is bad." If someone is successful in their market, they must have done something bad and if they haven't been doing something bad, they surely are planning to do something bad. If their prices haven't been too high, then surely their prices have been too low (one of the charges the Justice Department is thinking about bringing against Microsoft). If there is an economic success story out there in the big economy, it is the duty of the antitrust division of the Justice Department to ride to the rescue and break up the stuff of dreams.

The rest of the world knows that if they had a successful firm in a successful industry, they would be asking how their governments could help make that industry even more successful at home and abroad. They would be asking their governments to do something about the computer software piracy (copying of programs without paying for them -- mostly in Asia) that deprives American firms of \$12 billion in revenue that could make them even stronger in the future.

The last thing foreigners can imagine is doing anything to weaken either such firms or such an industry. Other countries all have active national industrial policies designed to capture the computer software industry. One of my colleagues at MIT, Mike Cusumano, has written a book about the Japanese computer software factory and the Japanese strategy for driving the American firms out of this industry.

The rest of the world's wonder comes from their won-

derment at their good luck in that the American Justice Department will do something for them they haven't been able to do for themselves -- weaken the American software firms and give them a chance to break into the industry. For if Microsoft were broken up or hobbled, the winners would not be other American firms but foreign firms who would first use this gap in the market to get their own national markets weaned back away from those American operating systems.

With local operating systems, other forms of American software couldn't be sold and foreign applications software firms would have a chance to also get their national markets away from the Americans. Then, having established an unassailable national base, it would be time to use the profits made in this national base to attack the big American market and get some market share away from the Americans.

For the rest of the world, this is a dream come true. Who needs a national strategy for capturing computer software when the Americans will give it to you?

If the Justice Department looks up and thinks for a few minutes, it will realize that almost by definition the computer software industry cannot be monopolized. It is just an industry that is too easy to enter. It doesn't take a lot of money. All it takes is a few bright computer programmers who get together and make the next breakthrough. It has happened in the past (that's how the Microsofts got big) and it will happen again in the future.

Even today there are seven or eight competing operating systems for personal computers -- some of them owned by companies like Apple, IBM, Sun and AT&T, who are certainly too big to be driven out of business by prices that are too low and certainly plenty big enough to take advantage of anyone who attempts to set prices too high. Even if this weren't true, piracy sets a limit on how high software prices can be set. If prices were set too high and there were no effective competition, everyone would start illegally copying the systems they wanted but could not afford.

The Justice Department should wake up and understand that the world of the 1890s (the era when our antitrust laws were formed) is not the era of the 1990s. Today's world is not a world where if one American firm is hobbled the beneficiary will automatically be another American firm. It is a world where nations vigorously attempt to create economic advantages for their own national firms.

Lester C. Thurow is professor of management and economics at the MIT Sloan School of Management.

One World Under DOS?

Old-Time Antitrust Policy Isn't Just Bad for Microsoft, It's Bad for America

By Robert J. Shapiro

HEALTH-CARE reform, NAFTA, national service, deficit reduction, public investment, welfare reform—virtually every part of President Clinton's domestic agenda can be seen as an attempt to help us become more competitive. But does the rest of his government get the message? Does it understand how the new economy works?

If reports on the business pages of many newspapers are accurate, the antitrust division in the Justice Department is considering moving against the Microsoft company, because the market share held by its MS-DOS operating system is deemed too big for healthy competition. For an administration disposed toward aggressive regulation of domestic markets, this case presents the first important test of its understanding of the new terms of competition in a global economy.

The case concerns, at base, two crucial changes in the rules of economic competition. The first is the most fundamental: In global competition, a firm's capacity to innovate is fast becoming more important than its

ability to cut costs by being more efficient. After all, Honda succeeded not by building a Ford more cheaply but by introducing innovative processes, materials and designs that defined a new market segment—and Ford came back by doing much the same thing with the Taurus. The second change at issue here concerns the way that technological breakthroughs create their own markets that, as they expand, tend to strengthen the relative position of the market's leading firm.

If we proceed as if these changes had never happened, we may injure not only the world-class competitiveness of one U.S. firm, but the productivity of our software industry and even the larger U.S. economy.

In many respects, the U.S. software industry epitomizes the new economy in which competitiveness is driven more by innovation than by traditional measures of efficiency. Global competition creates a dynamic in which new market segments are created or defined around the world by new products, production processes, sources of labor and materials and ways of marketing, financing and distribution. In this competitive hot-house, firms succeed not by producing a standard good more cheaply but by continually restructuring their resources so they can outpace their rivals.

What difference does this make for the case that a firm should be restrained because it has a large share of a segment of the soft-

ware market? In the old economy, a large market share could confer on a firm the monopolist's power to preclude real competition. The reason is that size brings with it economies of scale, including better access to the investment capital crucial to becoming more efficient.

But in the new economy, where innovation is more important than simple efficiency, market share is a poor proxy of market power because a firm with an innovative product or process can overtake the industry leader without matching its scale. Software entrepreneurs don't have to raise the capital to build a plant as large as the industry leader's; rather, they have to find and motivate a handful of programming geniuses who can develop a program with new features or greater capacity. That's why the Horatio-Alger route to success is so common in information-technology businesses—and so rare in old-economy industries. With a few exceptions such as IBM software, industry leaders have been born in garages and graduate-school labs, not in the divisions of large corporations.

In new-economy businesses, therefore, the competition that antitrust regulators are charged with protecting depends less on having a number of rivals of roughly the same size than on easy entry into a business line that requires human resources that no firm can monopolize.

In addition to the market power of innova-

tion, the new information markets have a particular feature that makes market share an especially wrong-headed measure of market power. When these markets function well, they almost invariably—almost inherently—are dominated by one firm. The reason is what economists call *network externalities*. That's an intimidating term for a simple dynamic in which one innovation creates opportunities for more, which can work only in tandem with the original. A firm, for example, develops a new computer system or operating program with more power or versatility than current versions, which attracts the attention of the people who write the application programs that consumers use, from word-processing and spreadsheets to graphics and games. As more applications are developed for the new software or hardware, the firm's market expands rapidly.

Nearly every segment of the information-technology market repeats this big-player pattern because it is, in a word, efficient. Microsoft is the significant player in operating systems for IBM-type computers—although others with market weight include IBM, Novell, Sun and Apple-Macintosh. But Novell has an even bigger share of the market niche for networking software. ATEX is the leading supplier of software designed for the publishing industry. Intel is the leader in the market for personal-computer microprocessors. IBM used to be the only big player in computer hardware—until innovators displaced it.

It is true that dominant products and players are aided by the fact that for an information technology to be useful for a broad variety of applications, it must conform to a standard in wide use—and patent and copyright laws

protect the property rights of those who set those standards. But big players still run large risks: When a new product sets off network externalities, the market share of the old leader tends not to erode slowly but to collapse quickly. What competitive markets give they also can take away—which is why most contracts within the industry are short-term.

As a matter of rational competitiveness, these market arrangements work well. Over the last decade, software has been the fastest-growing industry in the U.S. economy, with revenues up 239 percent (after inflation) since 1982 and employment growth of six to nine times the rates of the rest of the economy. And virtually alone among all our major industries, it has no foreign peers. U.S. software companies hold 95 percent of the American market and 60 percent of foreign markets.

Curbing the leader in one segment of this well-functioning industry at the behest of the leader's lagging rivals would, in effect, subsidize firms that have not competed as successfully and so weaken all players' economic incentives for innovation. In a global economy with many advanced nations rivalling America's economies of scale, our chief competitive advantage lies in technological superiority. Software innovations play a crucial role in this process because they enable other industries to innovate and become more productive. For example, some close observers forecast that software advances on the horizon may enable U.S. firms to reclaim much of the market in consumer electronics. The lesson for the Justice Department's antitrust enforcers is that nothing is gained by restricting an industry leader in one important segment of a healthy market—and a great deal could be lost.

Robert Shapiro is vice president of the Progressive Policy Institute. He was a principal economic adviser to Bill Clinton in the 1992 presidential campaign.

Bill Gates

Protection From Pirates

As the congressional vote nears on whether to approve the North American Free Trade Agreement, I would like to add my voice to the chorus of supporters nationwide. I do so because I believe NAFTA's removal of trade barriers and enhancement of intellectual property rights will significantly improve market opportunities from U.S. software companies.

Why should the rest of America care? Three reasons.

First, every governmental, academic or industry study shows software to be key to America's future.

Second, the U.S. software industry is a major contributor to the American economy. It is the fastest growing major industry in America. From 1982 to 1992, it grew by 369 percent compared with 30 percent for the rest of the economy. Today, it is larger than all but five manufacturing industries. Moreover, U.S. software companies are the source of many highly skilled, highly paid jobs of the type this country needs to continue its technological leadership into the 21st century.

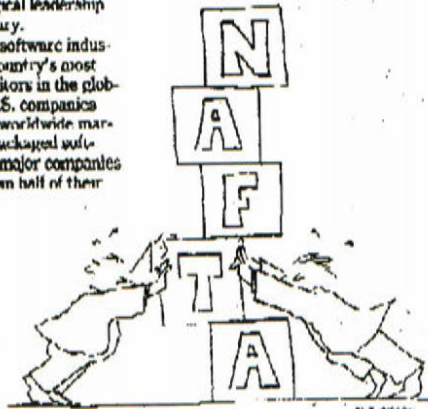
Third, the U.S. software industry is one of this country's most successful competitors in the global marketplace. U.S. companies hold a 75 percent worldwide market share for prepackaged software sales. Many major companies now earn more than half of their revenues abroad. Last year, for example, more than 50 percent of Microsoft's revenue came from foreign sales.

The single biggest threat to increased foreign sales and continued growth of the American software industry is rampant software piracy. The ability of any personal computer to make a perfect copy of a software program in a matter of minutes often proves irresistible. Software piracy costs the U.S. industry a staggering \$10 billion a year in lost revenue from foregone foreign sales. In Mexico alone last year an estimated \$293 million in sales was lost to piracy of copyrighted works, including software, books and recorded music.

ware piracy remains widespread (exceeding 85 percent of the software in use), systematic and intentional.

NAFTA is key to ending this piracy. The intellectual property provisions of NAFTA represent significant further improvements in the Mexican legal environment. NAFTA contains the strongest intellectual property provisions negotiated by the United States in any trade agreement to date. Specifically, it would codify a requirement for protection of software as a literary work under copyright, thereby requiring the highest level of protection. NAFTA can turn a large piracy market into a major software market.

Ending software piracy in Mexico means that more software products created and manufactured in the United States would be exported. These increased sales would generate more jobs at home—skilled jobs in such areas as the development and marketing of Spanish-language software, consulting services and skills training. Moreover, every new



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job in the computer industry begets additional jobs for our suppliers.

NAFTA may not be perfect, but for high-technology, innovation-based companies, it represents very significant progress.

Finally, we in the software industry see the success of NAFTA as important to the protection of intellectual property around the world. If NAFTA passes, then other Latin American countries could well seek similar arrangements. This would create an opportunity to extend strong intellectual property protection

and make that vast market accessible for American software companies. The Trade Related Intellectual Property components of the GATT Uruguay Round discussions would, in our view, be reinforced by the passage of NAFTA. U.S. government bilateral efforts to ensure that individual countries do not begin to enact laws that would jeopardize the high level of legal protection that U.S. industry has fought also would be advanced.

More generally, if NAFTA fails, trade liberalization would suffer a serious setback. Removal of artificial barriers to international trade in technological products provides more opportunities for American business and workers.

In short, approval of NAFTA is vitally important to the software industry—and the country. NAFTA presents us with an opportunity to protect our intellectual property rights and promote U.S. exports. It is an opportunity we should not miss.

The writer is CEO of Microsoft Corp.

The writer is CEO of Microsoft Corp.

Script of Bill Gates NAFTA Commercial

NAFTA is an historic opportunity. How historic is not well understood in this country.

For the first time, the Mexican market will be open wide to U.S. exports.

NAFTA will end Mexican tariffs, and put an end to piracy.

It will require Mexico to enforce copyright laws just like we do here in the States.

NAFTA will allow high-tech companies like ours to increase sales in Mexico and increase jobs in the U.S.

Our manufacturing productivity is so much better here, we won't have to move jobs to Mexico. As a matter of fact, NAFTA will do the same not just for software but for movies, publishing, even pharmaceuticals.

And this is important, because Mexico is becoming one of the top ten markets in the world. It is indeed an historic opportunity. But if we say "no" to NAFTA, Europe and Japan will seize the opportunity and reap the benefit.

Jobs.

DRAFT

October 1, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BERNARD W. NUSSBAUM

SUBJECT: Justice Department Brief in
United Mine Workers Case

The Justice Department has recently filed an amicus brief in a pending Supreme Court case, in which the United Mine Workers (UMWA) has challenged \$52 million in fines imposed on the union by the Virginia state courts during a 1989 strike. The brief is controversial because the government has argued that the UMWA is required to pay the fine, which the UMWA has asserted would bankrupt the union. This was not a case in which the Supreme Court asked the Justice Department to file an amicus brief.

The principal argument in the Justice Department brief is that the fines at issue -- for violation of a court back-to-work order -- are properly characterized as penalties for "civil," rather than "criminal," contempt of court. The union claims that the fines at issue were "criminal" and could only properly have been imposed after a full-blown criminal proceeding. But civil contempt fines -- designed to ensure compliance with Court orders -- are an important mechanism, used by the Labor Department and other agencies, in a broad variety of enforcement actions. Indeed, the Labor Department and NLRB often use civil contempt fines in areas that benefit workers -- such as labor relations, employee health and safety, pension plan security, and labor standards that protect against abuse of the minimum wage and overtime laws. The Justice Department filed its brief to ensure that this enforcement mechanism against noncomplying employers would not be undermined or curtailed by requirements that criminal procedure apply to these types of contempt proceedings.

It is the Justice Department's remaining arguments that are more controversial and that were opposed by the Department of Labor. First, the Justice Department argues that the Virginia courts remained entitled to collect the fine at issue even after the settlement of the underlying litigation (that is, the end of the strike to which the court orders were directed) and after agreement by the parties to vacate all of the fines. It is the union's position -- as well as the position of the Department of Labor -- that the civil contempt fine here was designed to coerce behavior (i.e., having miners return to work), and that the coercive purpose of the fine ended once the underlying conflict

was settled. According to the union (and the Department of Labor), any fine collected now would be "punitive," and thus cannot be collected without a criminal proceeding.

Second, the Justice Department argues that the union has failed to show that the \$52 million fines here violate the Due Process Clause of the Fourteenth Amendment and the Excessive Fines Clause of the Eighth Amendment. Asserting an interest in this issue because "federal fines and forfeitures are subject to challenge as excessive," the Justice Department argues that the union's arguments on this point are too "limited."

The Department of Labor had asked the Department of Justice to side with the union -- or, in the alternative, to take no position -- on these latter two arguments. But the Solicitor General's Office appears to have concluded that it was important to file an amicus brief on all of these issues to ensure continued availability of civil contempt enforcement remedies.

The White House expressed no position to the Justice Department on this brief. Union representatives and other union supporters may perceive the brief as an unnecessary challenge to the United Mine Workers.

Talking points are attached.

Substantively I like this
after TDS comments.
See final

X7929

TALKING POINTS ON JUSTICE DEPARTMENT BRIEF
IN UNITED MINE WORKERS CASE

- It is my understanding that the Justice Department filed its brief to support the continued availability of civil contempt fines, which are an important enforcement mechanism for federal agencies. The Labor Department and the NLRB, for example, often use civil contempt fines in areas that benefit workers, such as labor relations, employee health and safety, pension plan security, and labor standards that protect against abuse of the minimum wage and overtime laws.
- I would refer any additional questions to Secretary Reich, who is familiar with the case and the arguments made by the Department of Justice.

If pressed:

- This was a difficult situation in light of the importance of these civil contempt fines for workers generally and for federal agencies. We are very appreciative of the efforts the Labor Department made to present the union's positions to the Justice Department, and we think many of the Labor Department's concerns are reflected in the brief.
- The White House played no role in seeking to influence the legal conclusions of the Solicitor General.

THE WHITE HOUSE
WASHINGTON

11-7

Nauch / Pin B

This was a helpful -
now we have to
determine follow up
I had a good talk w/
us —

BC

DRAFT

November 5, 1993

MEMORANDUM TO **MACK McLARTY**FROM: **BILL BURTON**, MARK GEARAN, JACK QUINN,
& CLIFF SLOANSUBJECT: **Child Pornography case: Knox v. United States**

SUMMARY: At issue is whether the President should talk to the Attorney General to express his strong support for the broadest possible child pornography laws and to urge vigorous enforcement of the laws. If the President had the conversation with the Attorney General on Saturday, then Sunday, if asked about the issue on Meet the Press, he could explain not only his position but also could say that he has talked to the AG about the issue of child pornography. This is a critically important issue; child porn is the kind of "values" issue that could come back to haunt the Administration for years to come. We do not want to stay on the wrong side of this issue: we are currently on the wrong side (NYT headline: "Child Smut Conviction Vacated After U.S. Shift"; Washington Post copy: "The Clinton administration essentially sided with a Pennsylvania convict")

BACKGROUND: This week, at the request of the Solicitor General, the U.S. Supreme Court sent back to the Third Circuit U.S. Court of Appeals a criminal case involving a Pennsylvania man convicted by a federal court of possessing child pornography in violation of federal law. The remand followed the filing of the Justice Department's brief saying the Third Circuit had misinterpreted the nation's child pornography statute. This brief, filed in September, reversed the Justice Department's earlier position from March of this year which was that the Third Circuit had properly interpreted the statute in affirming the man's conviction.

In the case, the defendant, Stephen Knox, who already had one conviction for receiving child porn through the mail, was arrested and charged under the child porn statute when police found three videotapes in his apartment depicting young girls, 8-14, suggestively posed, wearing underwear, swimsuits, and leotards, with the photographer focusing on their genital area and buttocks. The literature found along with the videotapes clearly indicated that they were being marketed to pedophiles. At issue, among other things, was whether Congress intended the child porn statute to apply only to cases where a child is naked or wearing transparent or sheer clothing (the new Justice Department view) or can also apply to cases where a child's genital area is covered by panties, a leotard or a bathing suit (the Third Circuit's view and the former Justice Department position).

The Supreme Court decision produced news stories in the Washington Post and New York Times which said that the "Clinton Administration's new position" relaxed child porn standards. In reaction to the publicity and the Supreme Court decision, the U.S. Senate approved a "sense of the Senate" resolution by a 100-0 vote on Thursday saying that the Justice Department was wrong and that the Congress favored the broader interpretation of the child porn statute.

It is important to remember that this is NOT a first amendment case; this is a statutory interpretation case. And the statutory interpretation turns on legislative intent, and here, every member of the Senate -- Ted Kennedy to Jesse Helms -- agrees that Drew Days was wrong in his view of the legislative intent.

PROPOSED ACTION: The President should call the Attorney General on Saturday to discuss NOT THE KNOX CASE (it is a criminal case on appeal; it would not be appropriate for the President to become involved in a specific case) but rather the issue of child pornography.

First, the President should express his STRONG belief that child pornography is an atrocious crime, noting court cases which demonstrate that the government can outlaw pornography featuring children without meeting stricter adult obscenity standards required by the First Amendment, because of the way such pornography affects the lives of the young children being exploited.

Secondly, he should praise the Justice Department for its strong position in ANOTHER child porn case (U.S. v. X-Citement Video). (In that case, the Solicitor General on Friday filed a motion for cert in the Supreme Court challenging a Ninth Circuit opinion ruling part of the child porn statute unconstitutional. The issue in the case involves knowledge on the part of the Defendant).

He can then say that he favors the strictest possible child pornography laws, and that he expects the Justice Department to do the same. If the law as currently written has a loophole in it, the Attorney General should work with him to close that loophole and ensure that the Congressional intent expressed in the Grassley amendment approved Thursday is made law.

THEN, in response to a query from the press about the child porn case (Knox), the President should say something along the following lines:

"I support the strongest possible child pornography laws and their vigorous enforcement. I was pleased, therefore, when the Justice Department, in another child pornography case, appealed on Friday to the Supreme Court to reverse a lower court's decision holding our nation's child pornography statute unconstitutional.

CLOSE HOLD

DRAFT

"What makes child pornography so atrocious to all of us is the effect it has on the helpless children who are so viciously exploited by this sordid industry. That's why the Supreme Court has found that the Constitution allows the government to put the child's rights above those of the pornographers in such cases.

"I agree with the Attorney General that we should not discuss a specific case that is on appeal, particularly when it involves a criminal conviction that is at issue. I can tell you, however, that I believe we should prohibit all kinds of child pornography and should adopt the broadest possible laws on child pornography. So does the entire membership of the United States Senate, as evidenced by the resolution it passed on Thursday.

"I have spoken with the Attorney General about these issues, in a general sense, and have gotten her commitment to vigorously enforce the nation's child pornography laws. If it works out that the current laws we have are not strong enough to protect children from child pornographers and keep this filth from ever being produced, then we will work with the Congress, without delay, to strengthen these laws."

If asked a follow-up question, "If you disagree with what the Justice Department did, why don't you order a change in position?", the President could respond:

"I have not gotten into the statutory interpretation issues raised by the Knox case. I also have a problem with the concept of the President himself getting involved in an ongoing criminal prosecution, even when it is on appeal. So I must leave resolution of this specific criminal case to the Justice Department.

"But on a personal level, I was sickened when I heard that some people viewed our Administration as ~~being~~ supporting a 'liberalized' view of this stuff. I picked up the phone and said, 'No; we must be TOUGHER, not easier, on child pornography.'

"Let me be crystal clear: we will not abide child pornography in this country. And if the current law needs strengthening, we will strengthen it. The children and the nation deserve no less."

noting with 12/20/11

March / Bill Burton

B

THE WHITE HOUSE

WASHINGTON

November 10, 1993

The Honorable Janet Reno
Attorney General
Washington, D.C. 20530

Dear Madam Attorney General:

A dispute recently has arisen over the scope of the current federal child pornography law. This dispute impelled the Senate to adopt a "sense of the Senate" resolution expressing its view that the law reaches broadly. I fully agree with the Senate about what the proper scope of the child pornography law should be.

I find all forms of child pornography offensive and harmful, as I know you do, and I want the federal government to lead aggressively in the attack against the scourge of child pornography. It represents an unacceptable exploitation of children and contributes to the degradation of our national life and to a societal climate that appears to condone child abuse.

This Administration supports the broadest possible protections against child pornography and exploitation. I understand that the Justice Department recently filed a brief in which the Department concluded that the current child pornography law is not as broad as it could be. Accordingly, the Justice Department should promptly prepare and submit any necessary legislation to ensure that federal law reaches all forms of child pornography, including the kinds of child pornography at issue in the Senate resolution.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Clinton".

Group Draft: 9/18/93, 1:10 pm

Christopher
Speech

Ladies and Gentlemen:

Thank you, Les Gelb, for that generous introduction. The Council on Foreign Relations is very fortunate to have Les Gelb as its new President. As many of you know, I had the pleasure of working with Les during our last tour in government. He is one of our nation's foremost foreign policy thinkers and writers. His work and advice is valued here and around the world.

Thank you, President Rupp, for co-sponsoring our get-together today in this elegant setting. Columbia University is one of this country's oldest and proudest institutions of learning. From the schoolroom on Broadway where Samuel Johnson taught eight students in 1854, to this magnificent campus on Morningside Heights, Columbia has represented the spirit of inquiry and intellectual freedom that has made America strong.

Columbia has certainly contributed to the strength of the State Department. Two of my Under Secretaries, Joan Spero and Lynn Davis, have studied and taught here. They carry on

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Columbia's great tradition of sending women and men into public life with an international outlook.

My visit here today is one of several I have made and plan to make around the United States to speak to American audiences about our foreign policy. I believe that Secretaries of State spend too little time explaining our foreign policy to the audience that really counts -- the American people.

A week ago, from a small platform on the south lawn of the White House, the world took a very big step toward a more peaceful future. That simple handshake between implacable foes extends a mighty redemptive power that can help heal the wounds of this too-often-violent century.

Like the collapse of communism before it, the beginnings of the historic reconciliation between Israelis and Palestinians confirms our faith that the vision of a more secure and humane world no longer lies in the realm of dreams; that despite the continuing tragedies of our own day, hope can eventually replace despair; cooperation can overcome conflict; and peace and freedom can triumph over war and tyranny.

Last Monday's remarkable events remind us that we are living in a new era. The dangers and certainties of the Cold War are gone. A new set of threats and opportunities have taken their place. History has presented the Clinton

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Administration with both a daunting task and an inspiring challenge -- first, to understand the realities of the post-Cold War world; and second, to develop a coherent vision of America's role in that new world.

Today, I will share with you my thoughts on last week's historic developments in the Arab-Israeli peace process. I want to place the events of last Monday in historical context and describe to you the steps we must take to ensure this chance for peace does not slip from our grasp.

I also have a second, broader purpose in talking with you today. I want to spell out a more general principle about our foreign policy interests and to send a clear message that is driven by that principle. The principle is that American security and prosperity in the post-Cold War world depend on a United States that is actively engaged in that world and is determined to vigorously protect and advance its vital interests. The message is that, while the world we face today is dramatically different from the one into which we were born, our fundamental interests of security, prosperity, and democracy have not changed, nor has our resolve to protect them.

Shortly after I took office, I said that I wanted to project a foreign policy that would be activist in character, internationalist in outlook. You will find those fundamental tenets reflected in my words today.

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The Road to Peace in the Middle East

For more than 45 years, Democratic and Republican Administrations have worked tirelessly to break the cycle of violence between Israel and its Arab neighbors. They did so because they understood that the United States has enduring interests in this vital region that is an historic and strategic crossroad in the paths connecting Europe, Asia and Africa: enduring interests in peace in a region where conflict always threatens world peace and endangers our interests; enduring interests in the security and well-being of Israel; enduring interests in cooperative relations with the Arab world; and enduring interests in its oil resources, which serve as the lifeblood of much of the world economy.

These enduring interests have made Middle East peace a constant and essential goal of U.S. foreign policy. For decades, that goal eluded us. The region remained a tinderbox, threatening to embroil us in its deadly wars. This volatility was due in no small part to the existence of a Soviet Union determined to fuel the forces of radicalism and conflict. The Soviets by no means caused the Arab-Israeli dispute. Through massive arms transfers, support of terrorism, and diplomatic chicanery, they did everything in their power to see that the region remained at a constant boil. Their policies emboldened

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radicals, intimidated moderates, and left Israel, save for its friendship with the United States, in a lonely state of siege.

Throughout the long struggle of the Cold War, only one Arab country -- Anwar Sadat's Egypt -- managed to breach the wall of conflict that Moscow helped erect. Egypt -- the Arab world's largest and most powerful state -- braved ostracism and assassination to make peace with Israel. For fourteen long years that heroic achievement held strong, to the great benefit of both countries, as well as the United States. But it also stood alone -- until last Monday. The Israeli-Palestinian agreement in which President Mubarak played a critical role is a powerful vindication of Egypt's courage and vision.

It was not until the Cold War began to wane that new opportunities arose to combat rejectionism and promote peace. This was most dramatically demonstrated during the Gulf War. With the U.S. and Soviets working together, Saddam Hussein's radical challenge to the region's order was decisively turned back. Without Moscow's patronage, his "war option" proved to be no option at all. America's overwhelming display of power, principle, and leadership helped to tilt the Middle East's balance of power toward moderation. The result: unprecedented opportunities for peace.

Had we let it rest there -- had we left to others the job of turning opportunity into reality -- last Monday's dramatic

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events might never have taken place. Instead, only America could have provided Arabs and Israelis the assurances they needed to go to Madrid and risk breaking the historical taboo on direct negotiations.

On taking office, President Clinton reaffirmed America's historic role and enduring strategic interest in Arab-Israeli peace. He immediately saw the opportunity for an historic breakthrough. That is why, from day one of his Administration, he made the pursuit of a Middle East settlement a top priority. That is why he moved so quickly to gain the trust of key regional parties and to reaffirm America's unstinting support for Israel's security. And that is why, for my first official trip abroad, he sent me to the Middle East. His message was clear: the United States was irrevocably committed to the peace-making process; to reinvigorating the negotiations; and to elevating America's role to that of full partner.

America's contribution to last Monday's triumphant moment is unmistakable. Our victories in the Cold War and Gulf War created an environment in which peacemaking became possible. Our intervention at key moments this year, to resolve crises over Palestinian deportees and violence in Lebanon, salvaged the negotiations when they teetered on the brink of collapse. And throughout the past 22 months, under both Republican and Democratic Presidents, America's high-level political

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involvement -- whether in presenting a draft declaration of principles or in constantly pushing to define the parameters of the possible -- set the stage for decision-making in the secret Oslo channel.

In the end, of course, it was the parties themselves -- Israel and the PLO -- who reached out to each other. And that is as it should be. Indeed, the basic premise of the Madrid process has been face-to-face negotiations between the parties. From the beginning, the United States has encouraged communication in as many different channels as possible -- both formal and informal, public and private -- with the understanding that the most enduring solution would be one forged in direct negotiation.

It would be a great mistake if America were now to withdraw or shrink from its full and longstanding partnership in the peace effort. Our leadership is essential if this historic agreement is to realize its full potential. Today, on behalf of President Clinton, I am announcing our intention to lead a wide-ranging effort not simply to give peace a chance, but to ensure that it does not fail. Just as the United States organized a successful international coalition to wage war in the Gulf, we will organize a new coalition -- one that will secure the Arab-Israeli peace.

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As a first step, the United States will soon invite our key international partners in Europe, Asia, and the Arab world to a Conference to Support Middle East Peace. The purpose of this Conference will be to mobilize resources needed by the Israelis and Palestinians to make their agreement work. The international community must move immediately to help ensure that the people most directly affected by the agreement -- the Palestinians and the Israelis -- see that it is producing tangible improvements in their daily lives. If peace is to be accomplished, the agreement must deliver these results quickly and vividly. The Conference is intended to do precisely that.

The Conference will build on the structure of the multilateral track that has been meeting pursuant to the Madrid Conference framework. Those who will be invited to join the United States and Russia include the European Community, Japan, Saudi Arabia and the Gulf states, the Nordic countries and others -- and, of course, the Israelis and the Palestinians. The leading international financial institutions, particularly the World Bank, will be invited. Our objectives are to identify and prioritize critical needs, to organize ourselves for providing assistance, and to devise means of ensuring that help quickly reaches the areas where it is most needed. And we must have a plan not just for the long term, but for the next few months.

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One of the most critical issues has already been identified. Palestinians in Gaza and the West Bank need jobs now, and those jobs must be created. Because housing is in desperately short supply, the possibility of creating jobs by funding housing construction -- a labor-intensive activity -- must be examined immediately. Infrastructure must be developed, also on an urgent basis. We must also quickly provide assistance in public administration, tax collection, and social services.

In concrete terms, our initial assessment is that at least \$400 million a year for the next 5 years will be needed to give the Palestinians a solid economic base in Gaza and the West Bank. Given the number of international support partners that we expect, we are confident these needs can be met. And we will mobilize these supporters by our own example. We hope and anticipate, with the appropriations bill now pending in Congress, to assemble a two-year package worth \$250 million.

While we, our key partners and the international financial institutions -- especially the World Bank -- must lead the way, we must also involve the private sector. I say this not only because we want to see a free market economy emerge, but also because private investment will spur growth. A significant part of the U.S. package will include Overseas Private Investment Corporation loans and guarantees to stimulate private sector involvement.

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In this respect there is another kind of resource that America can and should provide to this effort. At the White House last Monday, immediately after the signing ceremony, the President, the Vice President and I met with a group of Jewish and Arab Americans. We were moved by their shared sense of hope and their spirit of reconciliation emerged from that day's historic events.

I think we must draw on the talent, genius and good will of these people. We are no longer simply negotiating peace; we are building it. In that spirit, the President will appoint a task force of Jewish and Arab Americans to help us trigger joint projects and private investment in the region. We also intend to name a senior coordinator for U.S. assistance -- much as we have done in the case of the former Soviet Union.

Ladies and gentlemen: the real barrier to peace between Israelis and Palestinians -- the psychological barrier -- has already been breached. Compared to that obstacle, the resource challenge we face is manageable and technical. I am convinced that we can succeed.

But ensuring that the Israeli-Palestinian agreement succeeds -- as important a goal as that is -- represents only a part of our larger task in the Middle East. We must nurture a comprehensive reconciliation between Israel and the rest of the

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Arab world. In the first place, that means facilitating progress on the Syrian, Lebanese and Jordanian tracks of the peace process. To that end, at the U.N. General Assembly meetings later this month I will meet with my counterparts from Syria, Jordan, Lebanon and Israel. I will follow those discussions with a visit to the region.

Though we recognize the complexities of these negotiations, we are committed to continue our role as active intermediary and honest broker. And I am confident that, given time, these talks will succeed.

Another aspect of our effort to promote comprehensive reconciliation is working to encourage our other Arab friends to act boldly in support of peace. That support must take not only economic, but diplomatic forms. The core antagonists to this conflict -- Israel and the Palestinians -- have courageously opted for mutual recognition and an end to their state of war. This bold step demands an equally bold response from their regional counterparts. Jordan's decision to sign a substantive agenda with Israel last Tuesday is a prime example. The meeting in Morocco between Prime Minister Rabin and King Hassan that same day was also a promising first step that the United States applauds. We urge others likewise to seize the moment for reconciliation.

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If Israelis and Palestinians can agree to mutual economic cooperation, it is illogical for Arab nations to continue their boycott of Israel. Every moment the boycott remains in force, those responsible are punishing Palestinians as well as Israelis.

The boycott is a relic of the past. It should be relegated to history -- now.

It is also imperative that quick action be taken to remove other vestiges of a bygone era that serve only to hinder reconciliation. This means revoking antiquated UN resolutions that sought to delegitimize Israel's very existence at the upcoming session of the UN General Assembly, it means acting to approve unanimously Israel's credentials. And in the U.S. Congress, it means amending statutes that inhibit dealing with the PLO.

I reiterate a simple but profound truth: only an Israel that is strong, confident, and secure can make peace. Only an Israel that is certain of its strategic partnership with the United States can take the necessary risks.

On behalf of President Clinton and the American people, I re-state a longstanding pledge to the Israeli public: As you and your leaders continue down the courageous path you have

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chosen, know well that America's commitment to Israel's security and well-being will remain unshakable.

I think it is revealing -- if not surprising -- that at a time when the entire world is praising last week's events, they are being denounced in places like Tehran, Baghdad and Tripoli. In response to such intemperate words, let no one mistake that we remain committed to seeing that the forces of moderation in the region are stronger than the forces of extremism.

To all who are prepared to work with us in building a new Middle East of peace, security, and prosperity, I say: you have a reliable and committed partner in the United States. To those who would sow dissension, intolerance, and violence, I say: the United States, its friends and its allies will take the political, economic, and military steps to ensure that you fail.

America's Role

This remarkable week for peace in the Middle East reminds us of the essential purposes of American leadership in the world. At this critical juncture, that reminder is timely.

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With the Cold War behind us, two broad questions have been raised in academic and media circles about the means and ends of American power. The first is whether America should continue to engage in the world or should withdraw to focus on domestic problems. The second is whether America should act alone or together with other nations to protect our interests abroad.

My colleague Tony Lake, will speak tomorrow at the Johns Hopkins School of Advanced International Studies. That speech will address the broad outlines of our foreign policy, and will discuss these two issues in greater depth than I have time to do today. It reflects broad policy discussions within the Administration, and I commend it to your attention.

The first debate is really the latest round in a century-old debate between engagement and isolationism. We choose engagement. The alternative -- neo-isolationism -- can be reduced to a simple syllogism: the Cold War is over, we won, let's go home and attend to our own problems. The great ideological battle of this century is over, the argument goes, and let others carry the burdens of world leadership.

We have heard similar arguments before -- and we have learned history's lessons well. Three times this century, we had to fight world wars that originated in Europe. In the past half century, we have fought three wars in Asia. Three times

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in the last two decades, our economy has been jolted by the aftershocks of war and revolution in the Middle East.

The pied pipers of isolationism misread the history of this century. They mistake the future of our economy. They misjudge the character of our people. And they minimize the threats to our security.

We must reject isolationism for the dangerous argument that it is. We must renew our commitment to internationalism, which has served us so well for fifty years.

The end of the Cold War has not ended history. Nor has it severed the links between Americans and the world. But it has left the United States with a continuing responsibility -- and a unique capacity -- to lead.

Why must we remain engaged? First, because it is in our economic interest to do so. We live in a technologically interconnected age. Vast amounts of information and dollars can be transmitted around the world at the speed of light. In such a world, how will we protect our interests or enhance our prosperity in a fast-growing region like East Asia if we do not work to open and expand international markets? How will we promote the global growth necessary to our own prosperity if we do not complete the Uruguay Round, modernize existing institutions like the GATT and nurture new ones like APEC? And

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how will we create high-paying export jobs for Americans if we are not willing to create a common market -- through NAFTA -- with our fastest-growing major trade partner, Mexico?

Second, we must remain active and assertive for the sake of our own security. Were it not for sustained American involvement over the last four decades, we would not be here today celebrating peace in the Middle East. We would more likely be worrying over the possibility of war in that region.

Just as American engagement was central to bringing peace to the Middle East, it is important in other regions where our vital interests are at stake. If democracy reverts to dictatorship in the former Soviet Union, Americans are likely to pay a severe price in a revived nuclear threat and increased defense budgets. If ethnic conflict in Europe widens; if terrorism spreads; if the proliferation of weapons of mass destruction in the Middle East and Asia is not checked, our security and our ability to focus on domestic renewal will be directly at risk.

In short, we must remain engaged not out of altruism, nor out of what one scholar has called the "imperial temptation," but because there are real American interests that will suffer if we buy into the isolationist myth.

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The second issue under recent debate is whether America should exercise its power alone or with others -- or to use the customary jargon, unilaterally or multilaterally. The issue, as framed, creates a false polarity. It is not an "either-or" proposition.

The central purpose of our foreign policy is to protect America's vital interests, which are at heart: the security of our nation, the economic prosperity of our people, and the advancement of democracy -- because democracy reinforces our interests and reflects our values.

In protecting those interests, the United States must retain its military strength and reinvigorate its economy so that we can retain the option to act alone, when that is appropriate, and with others when that is appropriate.

Our economic and military might give us the ability to act alone when necessary -- and we will maintain that power. When appropriate, we can leverage our might by sharing the burdens. But we should remember that our ability to generate effective multilateral responses will so often depend on our willingness to act alone.

From the Persian Gulf War to the international campaign to aid democracy in Russia, we have seen how collective action can advance American foreign policy goals. It can bolster our

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efforts to stem the proliferation of weapons of mass destruction, to knock down barriers to global trade, and to protect the environment. We have also seen that collective action requires -- and cannot replace -- American leadership.

Multilateralism is a means, not an end. It is one of many foreign policy tools at our disposal. And it is warranted only when it serves the central purpose of American foreign policy: to protect American interests. This country will never surrender its destiny or subcontract its foreign policy to another power or person.

No other nation possesses our military might, economic strength, and moral authority. The world looks to us as the engine of economic growth, the champion of an open global trading system, and the source of security assurances to many nations. And our position as the world's leading democracy is a source of immeasurable power and prestige.

We have seen in the Middle East a classic example of effective collective action -- the Gulf War coalition organized by the United States. We are now assembling a coalition for peace, much as we did for war. Whether this new coalition succeeds as well as the last one will depend on U.S. leadership and on a clear understanding that collective action is but one instrument that can serve peace.

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While the debate on the means of American engagement has proceeded, President Clinton has been meeting key foreign policy tests: putting domestic economic renewal at the heart of American foreign policy; mobilizing critical and timely support for Russian democracy as an essential investment in our national security; leading the global effort to curb the proliferation of weapons of mass destruction.

CONCLUSION

At the signing ceremony at the White House last Monday, Foreign Minister Peres paid an unusual tribute to our country:

In the history books, he said, "nobody will really understand the United States. You have so much force and you didn't conquer anybody's land. You have so much power and you didn't dominate another people. You have problems of your own and you have never turned your back on the problems of others. Thank you so much for being what you are."

To those who question the need for American engagement, I say, ask Shimon Peres.

Let these indelible events of the past few years -- the handshake at the White House; the Berlin Wall falling and the

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Soviet Union crumbling; Mandela walking out of prison to build a new South Africa and the Cambodian people walking out of the killing fields to vote in a free election -- let all these point us toward asserting and not abdicating our role.

Let that shining moment last week on the White House lawn light the way for a just and lasting peace in the Middle East -- and illuminate the need for America's continued leadership in the world.